

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA, CIVIL ACTION NO.
ET AL. JEFFREY M. 12-219

SIMONEAUX, Relator

JUDGE: SHELLY D.

VERSUS DICK

E.I. du PONT de NEMOURS MAGISTRATE JUDGE:
AND COMPANY STEPHEN C.

RIEDLINGER

Deposition of JEFFREY M. SIMONEAUX, 37177
Lakeshore Avenue, Prairieville, Louisiana, 70769,
taken in the offices of J. Arthur Smith, III, 830
North Street, Baton Rouge, Louisiana on Monday,
November 25, 2013.

REPORTED BY:

BETTY GLISSMAN

CERTIFIED COURT REPORTER

1 APPEARANCES:

2 J. H. BARNEY LAW FIRM, LC
3 (BY: JANE H. BARNEY, ESQUIRE)
4 2561 CitiPlace Court
Suite 750-161
Baton Rouge, Louisiana 70808

5 ATTORNEYS FOR THE PLAINTIFF

6 KUCHLER POLK SCHELL WEINER & RICHESON
7 (BY: MONIQUE M. WEINER, ESQUIRE)
8 1615 Poydras Street
Suite 1300
9 New Orleans, Louisiana 70112

10 ATTORNEYS FOR THE DEFENDANT

E X A M I N A T I O N I N D E X

PAGE

MS. WEINER 5

E X H I B I T I N D E X

Exhibit #1 51
Ascension Parish Sheriff's Department
Report dated 10/27/2013

Exhibit #2 154
Logbook Entries

Exhibit #3 154
Burnside Initial Incident Report
dated 3/18/2012 by Gene Clemons

Exhibit #4 154
Corrective Action Verbal for Jeff
Simoneaux to Thomas Miller from
Elizabeth Cromwell dated 4/18/2012

Exhibit #5 155
Burnside Initial Incident Report
dated 3/18/2012 by Jeff Simoneaux

Exhibit #6 155
Corrective Action: Note to File
Document to Meta Smith from Elizabeth
Cromwell dated 5/4/2012

1 S T I P U L A T I O N

2
3 It is stipulated and agreed by and between
4 Counsel that the deposition of JEFFREY M. SIMONEAUX,
5 on Monday, November 25, 2013, is hereby being taken
6 under the Federal Rules of Civil Procedure for all
7 purposes as permitted under law.

8
9 The witness reserves the right to read and
10 sign the deposition. The original is to be
11 delivered to and retained by the noticing attorney
12 for proper filing with the Clerk of Court.

13
14 All objections, except those as to the form
15 of the question and/or the responsiveness of the
16 answers, are reserved until the time of the trial of
17 this cause.

18
19 Betty D. Glissman, Certified Court Reporter,
20 Certificate No. 86150, in and for the State of
21 Louisiana, officiated in administering the oath to
22 the witness.

1 JEFFREY M. SIMONEAUX,
2 after being first duly sworn by the above-mentioned
3 court reporter, did testify as follows:

4
5 EXAMINATION

6 BY MS. WEINER:

7 Q. Mr. Simoneaux, we met before. I am
8 Monique Weiner. We are here to take your deposition
9 in the environmental claim that you brought against
10 DuPont. I don't want to, you know, reiterate. I
11 know we had a lengthy deposition session in
12 connection with your employment case so I am not
13 intending to go back through, you know, all of those
14 issues that we have talked about before.

15 A. Okay.

16 Q. But we'll kind of pick up, you know, from
17 where we left off at that point. That deposition
18 was in June 2012, so we will talk about, you know,
19 what's happened since then and then what's at issue
20 with your environmental suit.

21 A. Okay.

22 Q. Same ground rules as before. If you'll
23 respond verbally, the court reporter is taking down
24 what we say so that will be easier for her.

25 If you don't understand my question, just

1 let me know and I will rephrase it.

2 A. Okay.

3 Q. Are you on any medications today?

4 A. Yes.

5 Q. What are those?

6 A. Singular, Lipitor, Paxil, Lovaza.

7 Q. All right. In June of 2012, you were

8 taking it sounds like basically the same thing, but

9 at that point, you were also taking Ambien?

10 A. Yes.

11 Q. Is that anything that you are still on

12 today?

13 A. No.

14 Q. Have the dosage or frequency of the

15 Singular, Lipitor, Paxil and Lovaza been the same

16 since June of 2012?

17 A. The only difference is I only take Lovaza

18 once a day and the Singular I take seasonally for

19 allergies.

20 Q. What is the Lovaza for?

21 A. That's an Omega-3. It is just helps with

22 triglycerides.

23 Q. As far as you know, would any of the

24 medications you took in the last 24 hours affect

25 your ability to recall or your memory?

1 A. As far as I know, no.

2 Q. All right. And you are still married to

3 Elizabeth?

4 A. Yes.

5 MS. BARNEY:

6 Monique, can I make a little
7 statement I wanted to make before we began?

8 MS. WEINER:

9 Sure.

10 MS. BARNEY:

11 I just wanted to state for the
12 record that Mr. Simoneaux is not speaking on
13 behalf of the United States today. He is the
14 relator in the case, but we do not currently
15 have authority from the U.S. for him to speak
16 on behalf of the U.S. or by the United States
17 in any way and so he is talking today in his
18 personal capacity. I just want to clarify.

19 BY MS. WEINER:

20 Q. In preparation for your deposition today,
21 what did you do?

22 A. Read my complaint, my initial complaint
23 and I guess called the discovery, maybe.

24 MS. BARNEY:

25 Discovery responses.

1 THE WITNESS:

2 Responses, yes.

3 BY MS. WEINER:

4 Q. Your discovery response or DuPont's
5 discovery responses?

6 A. Yes, mine.

7 MS. BARNEY:

8 His.

9 BY MS. WEINER:

10 Q. Did you also review the documents that
11 were attached to your discovery responses?

12 A. I am not sure.

13 MS. BARNEY:

14 I don't think so, if you want me to
15 clarify. I don't think so.

16 BY MS. WEINER:

17 Q. Did you review your initial disclosures
18 and any documents produced with your initial
19 disclosures?

20 A. I am not sure about that, either, you
21 know.

22 Q. Any documents that you reviewed in
23 preparation for your deposition today, were those
24 provided to you by your lawyer?

25 A. Yes.

1 Q. All right. Did you review any personal
2 notes, anything that you kept at home, any materials
3 that you might have personally?

4 A. No.

5 Q. Did you talk with anybody, other than
6 your lawyer, to prepare for your deposition?

7 A. No.

8 Q. Did you have a meeting with your lawyer
9 to prepare for the deposition?

10 A. We had a phone conversation.

11 Q. All right. When did that take place?

12 A. Last night.

13 Q. How long did that last?

14 A. About 15 minutes -- maybe 20.

15 Q. Was anyone else on the phone call besides
16 you and Jane Barney?

17 A. No.

18 Q. Are you still employed with Shell?

19 A. Yes.

20 Q. You have been employed with them since
21 the beginning of September of 2012; is that right?

22 A. August. August 13th.

23 Q. So you have been with them over a year
24 now. Have you had any kind of annual performance
25 review or anything like that?

1 A. Uh-huh.

2 Q. Yes?

3 A. Yes, ma'am.

4 Q. When did that performance review happen?

5 A. I know it was during the summertime. I

6 am not sure about the month, maybe June or July,

7 something like that.

8 Q. So a little bit before your one-year

9 anniversary?

10 A. Yes.

11 Q. Who performed that review?

12 A. That would have been -- actually, I have

13 had two since I have been there. The first one was

14 my PTL, which is the process team leader, and his

15 name is Paul Stevens. He would have transferred out

16 of the country to another site and then I got a new

17 PTL is Charlie Stokes and he did a review. That

18 would have been the last one that I had in the

19 summer.

20 Q. How would you characterize the first

21 review that you had?

22 A. That one was more or less neutral because

23 I had only met him for like a week and I was still

24 being trained so he kind of made everything pretty

25 neutral.

1 Q. Was that the one with Paul Stevens?

2 A. Yes.

3 Q. Is this one -- you guess this is the one
4 in the summer of 2013?

5 A. No. That was the one prior to that.

6 That would have been like fall -- I mean spring.

7 Q. So spring of 2013?

8 A. Yes.

9 Q. And then the second one that you had with
10 Charlie Stokes, that was the one that was in the
11 summer?

12 A. Uh-huh.

13 Q. Yes?

14 A. Yes, ma'am. I am sorry.

15 Q. How would you characterize that review?

16 A. Review went -- it was good, yeah. It was
17 either all good or excellent.

18 Q. As a result of the first review, did you
19 have any change in your compensation?

20 A. No.

21 Q. As a result of the second review, did you
22 have a change in your compensation?

23 A. My compensation changed in August which
24 would have been a -- I guess it was a foreseen
25 salary increase. When I got hired, they told me if

1 everything, you know -- it went well and I qualified
2 for my first job, then I would get a salary
3 increase.

4 Q. So you knew that when you hired on that
5 as long as you were performing adequately --

6 A. Right.

7 Q. -- you would get a salary increase after
8 a year anniversary; is that right?

9 A. Yes.

10 Q. What was that amount of the salary
11 increase, if you know?

12 A. I am currently at their top pay which is
13 39, I think, \$39 an hour.

14 Q. And when I asked my question, I said
15 salary. You're not on a salary basis?

16 A. No. I am sorry.

17 Q. That was my mistake. You are on an
18 hourly basis?

19 A. Right. That's correct.

20 Q. So you make \$39 an hour as your hourly
21 rate?

22 A. Yes.

23 Q. And that went into effect in August of
24 2013?

25 A. August, correct.

1 Q. In addition to that, you have benefits
2 with Shell?

3 A. Uh-huh.

4 Q. What type of benefits do you have?

5 A. Health care coverage, life insurance
6 coverage, 401(k), pension after retirement, life
7 insurance, dental, health, eye care coverage.

8 Q. From your perspective, is the benefit
9 package that you have now at Shell the same, better
10 or worse than it was at DuPont?

11 A. It is a little -- the expenditures are
12 more because at DuPont we were actually offered
13 benefits at no cost, some of them, and the health
14 insurance was a little bit lower cost.

15 Shell's, all of them have a cost
16 involved.

17 Q. When you say a cost involved, is it
18 something that you have to pay per month to have the
19 premium itself or are you talking about the
20 out-of-pocket cost when you go see a doctor?

21 A. No, no, no. I am talking about the
22 premium. You know, like, for instance, dental was
23 free with DuPont. We didn't pay any of the premium.
24 We pay at Shell. Also, the life insurance -- life
25 insurance, no, I am sorry. Short-term and long-term

1 disability coverage was free at DuPont. At Shell,
2 we pay for that.

3 Q. Are those premiums deducted out of your
4 paycheck so that they come out automatically from
5 your -- what you would get normally in your
6 paycheck?

7 A. Yes.

8 Q. Do you know if those are pre-tax
9 deductions that are made?

10 A. I think some of them are pre-tax.

11 Q. So your paycheck would show what the
12 amount is every month or every two weeks. How often
13 do you get paid?

14 A. Twice a month.

15 Q. Twice month, all right.

16 And do you have deductions in every
17 paycheck?

18 A. Yes.

19 Q. All right. So if we got a copy of one of
20 your recent paychecks, double that amount and that's
21 how much comes out per month --

22 A. Yes.

23 Q. -- for your benefits?

24 A. Yes.

25 Q. Do you know what that amount is off the

1 top of your head per month that you pay out of your
2 paycheck for your benefits?

3 A. I think it may be 700, but I am not
4 really sure. And I am thinking that's per paycheck.

5 Q. 700 per paycheck is what you think it is?

6 A. I think, yes.

7 Q. So you think it is more like \$1400 per
8 month --

9 A. Possibly.

10 Q. -- that you pay for your premiums for
11 your benefits?

12 A. Possibly, yes. And part of it is
13 elective, like life insurance, so...

14 Q. To compare to what you were perhaps
15 paying at DuPont, do you remember monthly what would
16 have come out of your check for DuPont for benefits?

17 A. No. I do not.

18 Q. Since you have been with Shell since
19 August 13, 2012, have you had any disciplinary
20 action taken against you?

21 A. No.

22 Q. Any notes to file?

23 A. No.

24 Q. And no probations?

25 A. No.

1 Q. Have there been any environmental issues
2 at Shell that you complained about?

3 A. No.

4 Q. You mentioned that you looked at the
5 discovery that were your discovery responses to the
6 questions and the requests that DuPont sent. Have
7 you also seen any of the discovery, the questions
8 that have been sent on your behalf to DuPont in this
9 case?

10 A. I think I would have. Jane was been
11 pretty good about forwarding all of that stuff to
12 me.

13 Q. Have you helped to draft some of that
14 discovery in terms of what specific things should be
15 asked for?

16 A. Can you give me a little more detail
17 about what the discovery would have been?

18 Q. Sure, sure. The discovery is just, you
19 know, written questions or requests for documents,
20 those kinds of things.

21 A. Coming from you to me?

22 Q. Both ways.

23 A. Okay.

24 Q. It goes both ways in the litigation. We
25 have the right to send those to you and then you

1 sent several sets to us as well.

2 A. And your question is referring to the

3 ones that you sent to me?

4 Q. That you sent to us.

5 A. Oh, okay.

6 Q. My initial question is have you seen

7 those?

8 A. I would have seen those, yes.

9 Q. All right. Some of the discovery has

10 been focused on the shutdown that happened at the

11 Burnside plant in late September going into October

12 of this year. Who have you been in contact with at

13 the Burnside plant regarding the work that was done

14 during the shutdown or things that were happening

15 during the shutdown?

16 A. Nathaniel Rapp.

17 Q. My question was who at the Burnside

18 plant. He is not employed at Burnside anymore.

19 A. Prior to that, I think that I probably

20 talked to Percy Bell twice since your -- since he

21 had his deposition in this case.

22 Q. From when the plant shut down on

23 September 27th, you guys were out there that day as

24 the plant was starting to come down?

25 A. Yes.

1 Q. September 27th, 2013, from that date, the
2 first time when you went out to the Burnside plant
3 recently to today, who at the Burnside plant did you
4 talk to?

5 A. From the day that it went down to today,
6 Allen Williams, Kent Templet. Some of them was
7 phone messages like Drew Tabor, Ryan Becnel. Teddy
8 Monconduit called me at home. And one of the calls
9 would have been to Percy. And who else? I think
10 that may be it.

11 Q. I have Allen Williams, Kent Templet, Drew
12 Tabor, Ryan Becnel, Teddy Monconduit and Percy Bell.

13 A. I think that's it. That's about it.

14 Q. And that's in the time frame of late
15 September to today, those are the folks you have
16 talked to about -- those are the folks that you
17 talked to that are employed at the DuPont Burnside
18 plant?

19 A. Right. Yeah. I didn't necessarily talk
20 to them about anything ongoing.

21 Q. Let's start with Allen Williams. Did you
22 call him or did he call you?

23 A. I talked to Allen a good bit. I don't
24 recall. I mean, it had been several calls that I
25 made, several calls that he has made.

1 Q. Okay. Since the time the plant shut down
2 in late September of 2013, you don't recall whether
3 you initiated the contact to him or he --

4 A. It would have been probably both.

5 Q. All right. Do you talk to him on a
6 frequent enough basis that it doesn't stand out in
7 your mind?

8 A. Right.

9 Q. How often do you talk to him?

10 A. Probably two, three times a week.

11 Q. Are those conversations two or three
12 times a week always about the Burnside plant or is
13 it sometimes about personal issues?

14 A. It could be both. A lot of times he
15 called me to complain about what's going on at
16 DuPont. Also, a lot of the guys are interested in
17 leaving DuPont at this point and wanting to find out
18 more about Shell and telling me about how -- what's
19 going on in relation to DuPont selling the plant.
20 They are concerned about that.

21 Q. Did Allen Williams tell you anything
22 about what happened during the shutdown at the
23 Burnside plant in late September or October?

24 A. What happened? In regard to the repairs
25 that were being made?

1 Q. Right. Anything going on. You know, was
2 that a focus of your conversation of, hey, today
3 they did this, this and this --

4 A. No.

5 Q. -- tomorrow this is planned?

6 A. No, no.

7 Q. Any details that you can recall that you
8 and Allen Williams discussed at all relating to the
9 shutdown?

10 A. The only thing -- and I'm not a hundred
11 percent sure that it was Allen -- somebody told me
12 at some point that they were planning to start the
13 plant back up on Sunday.

14 Q. Do you recall what day of the month that
15 would have been, other than Sunday, like a numerical
16 date?

17 A. Yes. It was going to be the -- that
18 would have ended up being the Sunday, September
19 27th, I believe, that they actually started back up.

20 Q. October 27th?

21 A. October 27th, yes.

22 Q. And who told you that was the anticipated
23 startup date?

24 MS. BARNEY:

25 Objection. Asked and answered.

1 THE WITNESS:

2 I am not really sure, to be honest.

3 It could have been Allen or it could have
4 Nathaniel, but Nathaniel doesn't work out
5 there.

6 BY MS. WEINER:

7 Q. Have you discussed -- since you left the
8 Burnside plant, have you discussed any of the SO2 or
9 SO3 leaks with Allen Williams?

10 A. I am sure there was some -- at some point
11 some discussion or question are they still leaking,
12 and he probably said yes.

13 Q. Do you have any specific recollection of
14 any conversation like that as you sit here today?

15 A. Not specific date, time, other than I am
16 pretty sure I would have asked him.

17 Q. You would have asked him what?

18 A. Like, is it still leaking? Is the plant
19 still leaking? What are they doing about it?

20 Q. What did you recall Allen Williams saying
21 in response to those kind of questions?

22 A. Yes, it is still leaking.

23 Q. You don't recall a specific date or month
24 that you talked to him about that?

25 A. No.

1 Q. Okay. Kent Templet, my questions I will
2 start with are from the time the plant shut down in
3 late September to today, what conversations have you
4 had with Kent?

5 A. Kent would have been -- at that point
6 would have been sharing with him that Shell was
7 hiring and he mentioned something about another
8 employee at the site, Renee Becnel, having a mental
9 breakdown at work or something and did I know about
10 it, and I said I had heard about it.

11 Q. Who had you heard about it from?

12 A. Actually, I think it was Nathaniel Rapp.

13 Q. Do you know what Nathaniel Rapp's source
14 of information is since he is not at the plant
15 anymore, who he is talking to to get his
16 information?

17 A. He talks to just about all of the guys,
18 from what I understand. I know he talks to them
19 more than I do.

20 Q. So does that mean that you don't know
21 specifically which one?

22 A. No. I mean, I know he talks to a lot of
23 them. I can name all of the ones he talks to.

24 Q. So your discussion with Kent Templet
25 about the position that might be available at Shell,

1 did you initiate that phone call to Kent to let him
2 know about that?

3 A. Yes. I think initially I actually went
4 through my phone and all of my contacts from DuPont,
5 any ex-coworkers that I used to work with. I
6 actually messaged all of them and told them Shell is
7 hiring at Shell.com in August, September. No, no, I
8 am sorry. This is from September to October. They
9 are hiring for next year which is February, yes.

10 Q. So when do you think you would have done
11 that group message to several folks at the Burnside
12 plant about the Shell opportunity? When do you
13 think that was?

14 A. That would have been, like, just a couple
15 of weeks ago, yeah.

16 Q. And as I understand what you just said,
17 you said you went through your contacts and messaged
18 all of your former co-workers at the Burnside plant.
19 I take it you probably you didn't message people
20 like Elizabeth Cromwell?

21 A. No.

22 Q. Wade Miller?

23 A. And I don't know that she is still in my
24 phone. And Wade was probably never in my phone.

25 Q. So let's talk about who -- since it is

1 not all of your former co-workers at Burnside, who
2 do you think, to the best of your recollection, you
3 messaged?

4 A. And I think that's what I was meaning
5 when I listed people that I spoke to. It would have
6 been Ryan Becnel, Drew Tabor, Kent Templet, Teddy
7 Monconduit, Percy Bell, because I knew his son was
8 looking for a job, Steve Poirier. And, actually, I
9 may have -- I may have e-mailed Terrence Johnson. I
10 am not sure about that. I would have to look.

11 Q. Of the folks that you mentioned about the
12 opportunity at Shell, who responded back to you with
13 interest, if anybody?

14 A. Ryan Becnel, Percy Bell. Teddy
15 Monconduit called me. Kent Templet. And I think
16 Drew wrote something back, Tabor.

17 Q. In connection with your discussions with
18 them about the Shell opportunity, did you speak with
19 any of them about specifics of work going on at the
20 Burnside plant in connection with the shutdown?

21 A. No.

22 Q. So other than Allen Williams who you said
23 you did talk to, you know --

24 A. That would have been another time, yes.

25 Q. When you say it would have been another

1 time --

2 A. I didn't e-mail him about the job. I had
3 spoke to him about it. Or mentioned, I should say.

4 Q. So Allen Williams was not on the group
5 message about the Shell opportunity; you called
6 Allen directly?

7 A. I don't believe he was, no.

8 Q. So since late September of this year, who
9 have you talked to at the Burnside plant about what
10 repair work, anything that went on during the
11 shutdown that just occurred in October?

12 A. I know Percy told me at some point that
13 they had only found one golf ball size leak.

14 Q. Where was that leak; did he tell you?

15 A. No.

16 Q. Did you ask?

17 A. I don't know that I even asked him for
18 that, but I do remember him telling me that. And I
19 do remember my reply was "Do you think they're
20 probably just telling you they only found one leak.
21 Surely, they found more than one leak." And he
22 said, "Probably."

23 Q. Anyone else other than Percy that you
24 talked to about what went on during the repair work
25 or the shutdown?

1 A. Like I said, I talked to Allen a couple
2 of times a week and he would have been sharing stuff
3 about work that was being done by him during the
4 turnaround like they got us doing this and, you
5 know, more or less complaining to me about what they
6 were making them do. And I don't know that we
7 shared anything about the -- specifically, you want
8 to know about the gas leaks?

9 Q. Right.

10 A. No. I don't think there was anything
11 about what they found, or, to be honest, I don't
12 think he knew.

13 Q. As far as you know, was he involved in
14 any of the inspection or repair on the HIP of the
15 CIP?

16 A. No.

17 Q. Same question with Percy, was Percy
18 personally involved in any of the inspection or
19 repair of leaks on the HIP or the CIP?

20 A. No.

21 Q. Anyone else that you talked to on a
22 pretty frequent basis that still works at Burnside
23 other than Allen Williams?

24 A. No. Other than, like I said, Percy
25 called me twice.

1 Q. Twice since what time period? I am just
2 trying to put a bracket.

3 A. The way I remembered it is since the last
4 time he was here doing his deposition.

5 Q. All right. What were the subjects of the
6 two calls, if you can recall?

7 A. I think one we initially -- I know that
8 last one was when Shell was hiring so I had sent him
9 that message so he could tell his son. And then he
10 called me back and -- I know he called me one
11 time -- it was right after -- it had to be right
12 after the startup because the deputy had come to the
13 plant, and, actually, the person they met with was
14 Percy Bell. And he had called me to tell me that I
15 needed to back off and kind of leave him alone
16 because I was driving him crazy or something to that
17 effect. And I kind of gave him my side of it.

18 Q. Why did Percy believe that the deputy on
19 the plant had anything to do with you?

20 A. I guess he just assumed.

21 Q. Did the deputy on-site have anything to
22 do with you?

23 A. I may have called to the sheriff's
24 department.

25 Q. Let's talk about that.

1 A. Okay.

2 Q. What day did you make a call to the
3 sheriff's department?

4 A. That would have been the day they started
5 up and I think we said it was October 27th.

6 Q. So you find out from who that it was
7 going to be -- you said you didn't recall whether it
8 was Allen --

9 A. Yeah. I don't know. Somebody at some
10 point told me like a week prior that they were going
11 to be starting up Sunday afternoon sometime or
12 something like that was the plan. And so --

13 Q. All right. So with that information,
14 what do you do?

15 A. I just thought about it and it kind of
16 was a last-minute thing. I was getting off of work
17 at night at Shell. I said I am going to -- no, that
18 wasn't it. That was the next night. I was actually
19 off at home and I decided I was going ride that way
20 and go by Nathaniel Rapp's house and see if he
21 wanted to take a ride with me, because he lives
22 right by the plant, within a couple of miles. And
23 see if he wanted to take a ride with me on River
24 Road because they were supposed to be starting up.

25 Well, at some point, I don't remember if

1 I called Leo Scott or if he called me, but I was on
2 the phone with Leo Scott while I was driving down
3 the interstate and we stayed on the phone until I
4 had turn off of the interstate and started going --
5 heading toward the plant. I think I was passing
6 Pelican Point when I noticed from that vantage point
7 I could already see gas coming from the plant. And
8 I told Leo while I was on the phone with him, I
9 said, "If I am seeing what I think I am seeing, I
10 got to hang up with you because this is ridiculous
11 what I see." And as I got closer to the plant, I
12 realized that it was.

13 Q. It was what?

14 A. It was the gas coming from the plant. I
15 could see it all the way from Pelican Point.

16 Q. Did you take video or pictures of it?

17 A. Yes. I took pictures with my phone and I
18 got a video camera and came back.

19 Q. And that's part of what's been produced
20 to us that we don't have the capability of looking
21 at at this point; is that right?

22 MS. BARNEY:

23 I produced an October 27th and 28th,
24 and you -- the numbers, the Bates labels that
25 you gave me, for the -- I just found and

1 checked this morning that's for the October
2 27th video, but I e-mailed you, if you have a
3 QuickTime player, you can download QuickTime
4 on the computer and you should be able to
5 review it. I e-mailed that, I think,
6 Thursday.

7 MS. WEINER:

8 Yes, I saw your e-mail.

9 MS. BARNEY:

10 But I can still download it in a
11 different format for you today and I have
12 somebody here to do that if you need me to.

13 MS. WEINER:

14 Okay. That would be good, if we can
15 do that.

16 MS. BARNEY:

17 Yes. We produced them, but I can
18 change the format if you need me to.

19 THE WITNESS:

20 I still have it on my phone.

21 BY MS. WEINER:

22 Q. So you took video of what you saw that
23 day. Did you take any photographs?

24 A. I took the photographs with my phone when
25 I got there. I didn't have a video camera or

1 anything. And then I went back and got a video
2 camera and came back.

3 Q. When you say you went back, you went back
4 to your house and got a video camera or where did
5 you go?

6 A. I went to meet -- actually, Jane had the
7 only working video camera.

8 Q. Okay.

9 A. My video camera didn't work.

10 Q. So October 27th, you are on the phone
11 with Leo. You are headed to Nathaniel Rapp's house.
12 You see the gas cloud. You video it with your
13 phone; is that right?

14 A. I tried to video with my phone, but my
15 phone -- and I've since found out that the phone is
16 not -- I guess the pixels or whatever aren't good
17 enough to show up so it wasn't -- it was a very
18 blurry picture.

19 Q. Okay.

20 A. And so I took pictures. The pictures
21 came out better.

22 Q. And those pictures have been produced?

23 MS. BARNEY:

24 I think so.

25 THE WITNESS:

1 Yes, they would have.

2 BY MS. WEINER:

3 Q. So what time frame is this that you are
4 talking to Leo and headed out to the plant?

5 A. It would have been evening time.

6 Q. It's dark?

7 A. Yes. It would have been just after dark,
8 like, maybe 6, 7-ish, something like that.

9 Q. So you saw what you believed to be gas
10 coming from the Burnside plant?

11 A. Yes, I knew that it was gas.

12 Q. So you hang up the phone with Leo?

13 A. Right.

14 Q. You try to take pictures. I take it you
15 see that the video is not coming out well; is that
16 right?

17 A. Correct.

18 Q. So then what did you do?

19 A. I took the pictures.

20 Q. And then after that?

21 A. And then I kind of called Jane. And I
22 said, "Jane, this is ridiculous, what's going on
23 now." I said it is like they come up and it
24 appeared to me like no leaks had been fixed. Maybe
25 some were fixed, but I am beginning to believe what

1 Percy had suggested earlier that they had found one
2 golf ball leak and came back up. And there were
3 obviously no hoses attached to anything that would
4 have been even trying to mitigate the leak. It
5 appeared to me that they were running at a pretty
6 good rate and the reason I say that is I could tell
7 by the stack emission because the stack plume was
8 just enormous and it was actually coming down in the
9 middle of River Road. When I arrived, you literally
10 looked like you were driving through a cloud.

11 And I pulled into the -- I guess it is
12 the Impala site now which is adjacent to DuPont on
13 River Road, and the emissions were covering the
14 entire parking lot and the entire Impala site. It
15 was like fog. At that point, I started smelling it
16 in my car. I shut my air conditioner off.

17 Q. So at what point did you call the
18 sheriff's office?

19 A. I think after I spoke to Jane, I called.
20 No. I am not really sure, to be honest. It was
21 either -- I guess -- I guess we can look at the time
22 on it. But it was either right after I spoke to
23 Jane or after I got the camera. I think it may have
24 been after I got the camera.

25 Q. After you got the video camera?

1 A. Yes. I wanted to make sure that they
2 wouldn't try to tell me I was making it up again
3 like they did the last time.

4 Q. So you are coming towards the plant. You
5 are talking to Leo. You say, hey, if I am seeing
6 what I am seeing, this is serious. I need to hang
7 up with you. You try to video it. Don't have luck
8 with that because of the technology with your phone.

9 A. Right.

10 Q. You called Jane. You go to meet her at
11 some point, which I assume she doesn't live near the
12 plant?

13 A. Baton Rouge, yes.

14 Q. So you turn around, go drive back to
15 Baton Rouge and then come back to the plant with
16 video camera, right?

17 A. Correct.

18 Q. And then as far as you recall, during all
19 of that time, you haven't called the sheriff's
20 office yet, have you?

21 A. I am not really sure if it was before. I
22 think the time will show when I called, but I am
23 thinking it was after I had the camera.

24 Q. Okay. And when you say the time will
25 show, on like your cell phone bill or whatever --

1 A. No, the police report.

2 Q. Okay. But how would that tell you

3 whether you --

4 A. They should have logged down the time I

5 called, I think.

6 Q. So you think it was 6 or 7 when you were

7 first heading down to the plant talking to Leo?

8 A. Right.

9 Q. All right. And then it would have been

10 around about an hour --

11 A. No --

12 Q. -- by the time you went back to Baton

13 Rouge and back to the plant, right?

14 A. No, not an hour. About 40 minutes,

15 maybe, yes.

16 Q. Assuming that you called -- and did you

17 call the sheriff's office or you called 911?

18 A. I called 911, yes. And I ended up

19 getting the police department across the river and

20 they transferred me to Ascension.

21 Q. Okay. So you called 911 and let's assume

22 just for the sake of our discussion you do that

23 after you come back and you have the video camera.

24 I understand that the time that you actually called

25 may be reflected on the 911 records.

1 A. Uh-huh. I did call Nathaniel Rapp, too.
2 I am just thinking. And I asked him if he had a
3 video camera and he said that he didn't. So that's
4 when he called Jane.

5 Q. So after you got off the phone with Leo,
6 then you called Nathaniel while you were still down
7 in the plant area?

8 A. Yeah. That would have been after I saw
9 the leak and stuff.

10 Q. Okay.

11 A. And I called him and I asked -- I told
12 him, you know, I was planning to come by your house
13 and I saw a leak and I came straight here. I said,
14 do you happen to have a camera, a video camera that
15 I could use and he said, no, I didn't have one. So
16 I am going to call Jane and see if she has one.

17 Q. At any time that evening, did Nathaniel
18 ever come along with you, because you said your
19 original plan was you were going to go by and see if
20 he wanted to come along with you?

21 A. Right.

22 Q. Did he ever join up with you that
23 evening?

24 A. No, he didn't.

25 Q. Did you invite him to do so?

1 A. I may have asked him. I am not sure. I
2 think that he may have been barbecuing or something
3 at his house.

4 Q. But as far as you know, did he see the
5 gas leak that you saw that evening?

6 A. I don't know that he did, no. I didn't
7 ask him and I don't know that he did.

8 Q. As you sit here today, other than
9 obviously the people who had been working at the
10 plant that evening, are you aware of any other
11 eyewitnesses besides yourself as to what you saw
12 that evening?

13 A. Yes. Well, there were other people in
14 the parking lot who I am sure saw the leak, truck
15 drivers and whatnot, but, also, the security guard
16 that was there.

17 Q. You're talking about at Impala?

18 A. Yes. He would have seen it.

19 Q. How long did you stay in the parking lot
20 at Impala?

21 A. That first night, maybe -- you mean when
22 I came back?

23 Q. The night of October 27th. Did you go
24 there twice that night?

25 A. I went there initially -- yeah.

1 Q. Okay.

2 A. I went there initially when I had just my
3 phone and I only stayed a few minutes and went and
4 got a camera and came back and I probably stayed
5 close to an hour, 40 minutes to an hour.

6 Q. Impala is a manufacturing facility?

7 A. I think they -- I am not 100 percent
8 sure, but thought -- I think they bought Ormet
9 and/or the Burnside terminal, whichever, and they
10 are going to put in a coal liquification plant, and
11 so they are under construction right now.

12 Q. As far as you know, are they subject to
13 the same kind of Homeland Security concerns and
14 obligations like the DuPont Burnside plant has?

15 A. I would think so, yes. I would have been
16 outside of that perimeter, though, in the parking
17 lot.

18 Q. So given what you know and what you have
19 been trained on with respect to Homeland Security at
20 DuPont and anything that you may have learned while
21 you were at Shell, you thought you were okay with
22 where you were at Impala; is that right?

23 A. Yes.

24 Q. Did they ask you to leave?

25 A. No.

1 Q. Not at any time that you have been on
2 Impala's property have they asked you to leave?

3 A. No.

4 Q. You said that first night that you were
5 at Impala, you were there two separate occasions on
6 October 27th. How many times have you gone back
7 since October 27th to view operations at Burnside
8 from the Impala parking lot?

9 A. The very next night, I came back and I
10 videoed again.

11 Q. October 28?

12 A. Yes. And they were leaking still, so.

13 Q. Did you call 911 that night?

14 A. Yes, I did.

15 Q. So when you called 911 the first -- was
16 that the first time with respect to any leaks at the
17 Burnside plant that you called 911?

18 A. I think it was.

19 MS. BARNEY:

20 Ever or --

21 MS. WEINER:

22 Ever.

23 THE WITNESS:

24 Yes, I think it was, yes.

25 BY MS. WEINER:

1 Q. Have you called 911 for any reason before
2 October 27th personal, business, anything?

3 A. I did call -- I don't know if it was 911
4 or the police department, but I did call and talk to
5 an officer after -- and this is really foggy now. I
6 don't know if it was after Leo breathed in gas at
7 the plant or -- there was some reason I called and
8 this was when I was at home. I don't know if I was
9 still employed with DuPont or not, but I had called
10 them and spoke to an officer who actually came to my
11 house and told them about what was going on, that
12 they had -- it couldn't have been too long after
13 somebody else had called 911 and they had showed up
14 at the plant. And DuPont had turned them away. I
15 think Renee Becnel had spoken to -- I don't know if
16 it was the fire department or the police department
17 showed up at the front gate and he had spoken to
18 them and told them that it wasn't leaks. And I
19 don't know if it was immediately after that or not,
20 but I told the officer that what had happened was
21 that they had hidden the truth from them, that the
22 plant had been leaking and that you didn't disclose
23 that to him, and I said, they're leaking every day.
24 If you go out there right now, you will see that
25 they are leaking and the guy basically told me that

1 while he admired what I was a trying to do, he said
2 it was useless. It is like -- I forget the analogy
3 from the Bible that he quoted -- the giant -- like
4 the little guy fighting the giant. What is the
5 analogy I am trying --

6 Q. How did you know that he -- that the
7 police officer didn't have all of the information
8 from the 911 call if you didn't make that one?

9 A. You mean the original one with Renee
10 Becnel?

11 Q. Right.

12 A. Because Leo Scott was working that day
13 and he told me that they came to the plant. He was
14 loading a truck and Renee ended up meeting with
15 them, and when he showed up, the truck was leaving.

16 Q. Who made that 911 call --

17 A. I have no idea.

18 Q. You don't remember today? You don't --

19 A. You are talking about the one from --

20 Q. On May 27, 2012 when there was the gas
21 cloud and the fire department came to the DuPont
22 site.

23 A. Oh, well, somebody was driving through
24 the gas cloud?

25 Q. Right.

1 A. Yes. That was supposedly, according to
2 the Nathaniel, his neighbor that called.

3 Q. So Nathaniel Rapp told you that it was
4 his neighbor that called?

5 A. Right.

6 Q. Do you believe that to be true?

7 A. I don't know whether it is true or not,
8 but that's what I was told. And the police came to
9 his house as well.

10 Q. To the neighbor's or Nathaniel Rapp's?

11 A. To Nathaniel's house.

12 Q. And they talked to him?

13 A. Right.

14 Q. So when Leo allegedly breathed the gas,
15 you weren't working at the plant at that point,
16 right? You weren't on site, whether you were on
17 leave or not, physically?

18 A. No, I wasn't -- I don't think I ever
19 ended up going back to the time, whether it was
20 because I was employed with Shell or I was out for
21 stress.

22 Q. So if you weren't there the day that Leo
23 was allegedly exposed and you found out about it
24 after the fact, how come you are the one calling 911
25 about it?

1 A. Because I didn't like the fact that the
2 police weren't doing anything about it. This gas
3 leak had been going on for -- I mean, it was a
4 better part of the year and nobody was doing
5 anything about it. I had been threatened for
6 reporting leaks. Now the police department is, from
7 what I understand, questioning Nathaniel Rapp like
8 he is doing something wrong instead of investigating
9 whether this was actually happening or not.

10 Q. So your call to 911 about Leo's alleged
11 exposure was after the call that was by Nathaniel
12 Rapp's neighbor as far as you know?

13 A. I think it would have been. I think
14 that's why I called them. Because I do remember
15 that he had spoken to a guy and so Nathaniel was
16 asking me what did he look like and we were trying
17 to figure out if it was the same officer, which we
18 did think -- we agreed that it was probably the same
19 officer.

20 Q. So we started this discussion with me
21 asking if you had ever called 911 before --

22 A. Right.

23 Q. -- in your life relative to anything
24 because I think that's --

25 A. Yes. I have called 911.

1 MS. BARNEY:

2 You mean outside of the Burnside
3 plant?

4 MS. WEINER:

5 Yes, anything, ever.

6 THE WITNESS:

7 Yes, yes, I have called 911.

8 BY MS. WEINER:

9 Q. About what?

10 A. I have called 911 when I saw an accident.

11 This was a few years ago. I called 911 --

12 Q. An automobile accident on the interstate
13 or somewhere?

14 A. Right. I know that I have called them
15 before like for situations like that where people
16 were broke down. It's probably been two or three
17 occasions where I have called 911 for that kind of
18 situation where I have seen an accident or
19 something.

20 Q. And then relative to operations at DuPont
21 Burnside, you called -- the first time that you can
22 recall making a call to 911 about Burnside
23 operations would be regarding Leo Scott; is that
24 right?

25 A. Right.

1 Q. And then was the next time you would have
2 made a 911 call October 27th?

3 A. Yes.

4 Q. And then you made one October 28th?

5 A. October 28th.

6 Q. Any others?

7 A. No.

8 Q. With respect to the 911 call on October
9 27th, did you stay at the Impala parking lot until
10 the police arrived at Burnside?

11 A. I stayed in front of the -- and I think I
12 told them the Ormet gate at that point. I didn't
13 know about Impala. I stayed -- I was on the side of
14 the levee where the road goes over the levee and I
15 stayed there about 15 minutes and then I ended up
16 leaving. Nobody showed up for 15 minutes. And I
17 didn't know whether they were going to show up or
18 not. And I started driving back to my house. I got
19 a call as I was pulling into my driveway and it was
20 the police dispatcher saying that the police officer
21 was looking for me, did I want to make a statement
22 or did I want to -- and I told her I was at my house
23 and I waited 15 minutes and nobody showed up. And
24 she said, do you still want to make a complaint. I
25 said, yes, ma'am. I said -- she asked did I want to

1 return to the site. I said if I have to, I will,
2 but I would think -- she said, well, what do you
3 want him to do? I said, I would like for him just
4 to go to DuPont and see for themselves that there is
5 gas coming out. And she assured me that they would
6 still do an investigation. And so she was supposed
7 -- they were supposed to call me back in the
8 morning. I never got a call the next morning. But
9 at some point, I did follow up and get the police
10 report.

11 Q. So you have a copy of the police report
12 from October 27th?

13 A. I do.

14 MS. BARNEY:

15 We're getting it Bates labeled and
16 you will have it today.

17 MS. WEINER:

18 Okay.

19 BY MS. WEINER:

20 Q. Was there a report also made with respect
21 to your October 28th call?

22 A. Yes.

23 Q. Do you have that one as well?

24 A. Yes.

25 MS. WEINER:

1 And that one is getting Bates

2 labeled, too?

3 MS. BARNEY:

4 I don't have that one. So I need to
5 get that from you and we can Bates label it
6 and give it to you today.

7 THE WITNESS:

8 Okay. I thought I did give it to
9 you, but I will look.

10 MS. BARNEY:

11 I will check. I don't have it ready
12 to give to you, but I will make that happen.

13 BY MS. WEINER:

14 Q. Did you, in speaking with anyone that
15 still works at Burnside, find out if the police
16 actually came on October 27th?

17 A. I found out from the police report that
18 they -- it appeared in the police report that they
19 didn't show up at the site, that they actually
20 called on the 2- -- on the 27th and spoke to
21 somebody. I would think it would be the board
22 operator.

23 The police report basically says -- do
24 you want me to --

25 Q. Yes. Tell me what your understanding is.

1 MS. BARNEY:

2 I can get a copy of the 2- -- the
3 one that I have, I can get it. It is not
4 Bates labeled yet.

5 MS. WEINER:

6 That will be fine.

7 MS. BARNEY:

8 If you want me to grab it real
9 quick.

10 BY MS. WEINER:

11 Q. While we are waiting for the information
12 to come in, are you still seeing any mental health
13 professionals, any counselors like you were when we
14 last talked in June of 2012?

15 A. No. I haven't seen anybody since I
16 started -- no, before -- around when I started at
17 Shell, I haven't seen anybody.

18 MS. BARNEY:

19 This goes together.

20 MS. WEINER:

21 Okay.

22 MS. BARNEY:

23 Okay. I guess I wasn't in a hurry
24 because I figured DuPont had gotten the police
25 reports, but I will get that second one for

1 you as soon as I can.

2 MS. WEINER:

3 That will be great.

4 BY MS. WEINER:

5 Q. Let me show you a copy of your report
6 that your lawyer has provided to me. If you will
7 take a look at that and see if that's the October
8 27th police report that you recall.

9 A. This says the 27th. Yes. This is it.

10 Q. All right. We were talking about the
11 time that you would have called 911. It looks like
12 on the call information, the time is listed at
13 22:27:13 which would be 10:27 p.m.

14 A. Yes, yes.

15 Q. Does that comport with your recollection?
16 You don't dispute that that is what time you called?

17 A. No. I guess that would be right, yes.

18 Q. And then the next page is a narrative
19 description that I assumed the sheriff's office has
20 input. You didn't put any of this information on
21 the second page?

22 A. No, absolutely not.

23 Q. It says, "Sergeant Nethken attempted to
24 contact the caller, but he left prior to the arrival
25 of deputies on the scene and did not wish further

1 contact."

2 A. That's not what I told the dispatcher. I
3 told her that I wanted to still make the complaint
4 and that I wanted to assure -- they assured me that
5 they were going to go to the site and talk to
6 somebody. And they were supposed to get back with
7 me in the morning, but never did.

8 Q. You were only talking to the dispatcher;
9 you never talked to any of the sheriff's deputies?

10 A. No.

11 Q. All right. And then the second --

12 MS. WEINER:

13 Do we also have the October 28th
14 report?

15 MS. BARNEY:

16 I have never seen that one. And I
17 don't see it on my computer e-mailed to me
18 from Jeff or anything.

19 THE WITNESS:

20 Yeah. I may still have the copy
21 somewhere. I will look for it at my house.
22 If not, I can always go get another one.

23 BY MS. WEINER:

24 Q. You went and obtained personally a copy
25 of this report?

1 A. Both of them.

2 Q. For October 27th and October 28th

3 together?

4 A. Uh-huh.

5 Q. Yes?

6 A. Yes.

7 MS. BARNEY:

8 I think anybody can get a copy of

9 it. You have to pay.

10 THE WITNESS:

11 Well, they say you have to pay, but

12 they didn't charge me.

13 MS. WEINER:

14 We'll attach a copy of this as

15 Exhibit #1. I understand it's going to be

16 Bates labeled, but we can address that issue

17 later.

18 BY MS. WEINER:

19 Q. With respect to the October 28th 911

20 call, let's go over that. You said that you were --

21 the first call on the 27th, you said you weren't

22 working that Sunday; is that right? You were off

23 work that day?

24 A. If I am thinking correctly, I was off, I

25 think. That was a Sunday? Yes, I would have been

1 off one of the days so I am pretty sure I was
2 working the next day and I went straight from work
3 and went back and that's when I saw it leaking
4 again.

5 Q. Your schedule in October with Shell, were
6 you working days or nights?

7 A. I am thinking that I worked -- Sunday
8 would have been the first day they started back up
9 so I think I was working Monday and Tuesday day, 12
10 hours.

11 Q. And when you work Monday, Tuesday days,
12 12 hours, what time do you report for work?

13 A. Four o'clock.

14 Q. A.M.?

15 A. Yes. Really 3:30 a.m.

16 Q. So if you were making 911 calls at 10:30
17 the night before, you got about five hours of sleep,
18 if that; is that right?

19 A. Yeah.

20 Q. So you report to work at 3:30 the morning
21 of the 28th. You work a 12-hour shift so that's
22 still about 4 p.m.; is that right?

23 A. Uh-huh.

24 Q. Yes?

25 A. Yes.

1 Q. And then after you leave the Shell plant
2 at 4 p.m., you drive directly to the Impala parking
3 lot again; is that right?

4 A. Yeah, yes. I would have waited possibly
5 awhile and then went.

6 Q. Was it dark, to your recollection, when
7 you went back there?

8 A. Yeah. That's what I'm thinking. It
9 wouldn't have been dark yet.

10 Q. Did you go home and change clothes, maybe
11 eat?

12 A. No. I don't think. I think I may have
13 went to the grocery store. I am not really sure, to
14 be honest. I don't remember what I did.

15 Q. All right. So we don't know exactly what
16 time?

17 A. I know what I did. I went to Pelican Pub
18 and had a beer. That's what I did.

19 Q. Pelican Pub is where?

20 A. Right in front of Pelican Point.

21 Q. So near the Burnside plant, kind of in
22 the vicinity, area?

23 A. Uh-huh.

24 Q. Yes?

25 A. Yes.

1 Q. Sorry.

2 A. I keep saying uh-huh.

3 Q. That's okay.

4 Did you meet anybody to have a beer at
5 Pelican Pub with?

6 A. No.

7 Q. And then after you had the beer, what did
8 you do?

9 A. It would have been dark so I went towards
10 the site to see.

11 Q. Did you still have the video camera that
12 you had picked up from your lawyer the day before?

13 A. I did.

14 Q. All right. Had you brought anything
15 else, any other camera, recording equipment,
16 anything like that?

17 A. No. I don't believe. No.

18 Q. So between October 27th when you called
19 911 and now the evening of October 28th when you are
20 going back out to the Burnside plant vicinity, have
21 you talked with anybody that worked at the Burnside
22 plant?

23 A. No. The only people that I was talking
24 to was Leo and Rapp.

25 Q. What were you talking --

1 A. I don't think I spoke to Allen.

2 Well, Rapp knew from me calling that
3 night what I had seen and he knew I was going to
4 find a video camera. I think he may have shared
5 with me that -- who was working. I mean, he knew
6 who was working that night and told me who answered
7 the phone.

8 Q. Nathaniel Rapp knew who was working at
9 Burnside or at the sheriff's office?

10 A. No. At Burnside.

11 Q. How did Nathaniel know who was working at
12 Burnside that night?

13 A. He speaks to people.

14 Q. Who did Nathaniel tell you was working at
15 Burnside that evening?

16 A. He told me it was Randall Griffin, I want
17 to say Renee Becnel and -- wait, wait, wait. No, I
18 am sorry. I think it was Randall Griffin, Ryan
19 Becnel and Dan Mulholland.

20 Q. What significance, if any, was it to you
21 that those three were the ones working?

22 A. None. There was an extra guy out there
23 for the startup. I am not remembering who. It was
24 probably three or four guys there. Renee might have
25 been there, too.

1 MS. BARNEY:

2 Just for the record --

3 THE WITNESS:

4 There is no significance, really.

5 MS. BARNEY:

6 -- I e-mailed you that shortly after
7 that and tried to add some people to the
8 deposition list and the list I sent you is the
9 guys that were working, and you said we were
10 limited to ten.

11 MS. WEINER:

12 Okay.

13 MS. BARNEY:

14 So that e-mail is a better, maybe,
15 reflection of that information.

16 THE WITNESS:

17 They are all pretty scared to say
18 anything about leaks. Those, in particular,
19 didn't surprise me that they would have been
20 starting up and having been -- there is no way
21 they would have -- actually, no way they
22 wouldn't have known that they are putting out
23 that amount of gas. They would have been
24 looking at it on the camera. But with Dan
25 there, they would have been pretty much

1 following whatever he said to do.

2 BY MS. WEINER:

3 Q. And your opinion is that -- does Dan know
4 what he is doing?

5 A. My opinion --

6 MS. BARNEY:

7 I'm going object to the form. But
8 you can answer.

9 THE WITNESS:

10 There is nobody out there that
11 understands what they are dealing with
12 anymore, in my opinion.

13 BY MS. WEINER:

14 Q. You were the only one?

15 A. No, no. All of the operators understand
16 what they are doing.

17 Q. But some of people that you mentioned,
18 Randall Griffin --

19 A. Like I said, they saw what happened to me
20 and they would not have put their job in jeopardy by
21 complaining or I just don't think they didn't have
22 the nerve to bump what management wants to do. And
23 to be honest, Dan thinks it is kind of a joke and he
24 hasn't been there very long, probably maybe two
25 years. And the others -- I really didn't believe

1 the others understand what the law is. I don't
2 think Tom does, Tom Miller, and I know Gene doesn't.

3 Q. Okay. You said that you think that Dan
4 Mulholland thinks it is a joke. What do you mean by
5 that?

6 A. It seems like even during the inspection
7 that it was -- everything is kind of just a big fun
8 and games --

9 Q. Do you have any specifics with regard to
10 leaks that you know Dan would have seen and that he
11 didn't respond appropriately to?

12 A. Well, that night. That night and the
13 leaks have been going on ever since December of 2011
14 and nobody has responded appropriately, including
15 Dan, and Dan has kind of taken over the process
16 supervision in light of Elizabeth kind of being -- I
17 said kind of being -- she is very weak in that
18 regard.

19 Q. What is your understanding of the
20 reportable quantity of a SO2 leak?

21 A. Of an SO2 leak?

22 Q. Yes.

23 MS. BARNEY:

24 I am going to object to the extent
25 it calls for a legal question, but you can

1 answer.

2 THE WITNESS:

3 I think it is like 100 pounds,
4 something like that.

5 BY MS. WEINER:

6 Q. As an operator at the DuPont site when
7 you were there, you were trained on what the
8 reportable quantities were for certain leaks and
9 issues because the operators were the eyes and ears
10 of the plant, right?

11 A. Right. I don't know how specific we were
12 trained on that, no. I don't agree with that.

13 Q. But your understanding of the reportable
14 quantity for SO₂ is 100 pounds; is that what you
15 said?

16 MS. BARNEY:

17 Under what statute? I don't know
18 what you mean.

19 MS. WEINER:

20 I want to know his understanding --

21 MS. BARNEY:

22 I will just object to vague.

23 BY MS. WEINER:

24 Q. When you call 911 and say there is an
25 issue that needs to be reported, there is a

1 reportable quantity for that. You understand that,
2 right?

3 MS. BARNEY:

4 Object to the form and object to the
5 extent it calls for a legal conclusion. But
6 you can go ahead.

7 THE WITNESS:

8 I wasn't calling them to report SO2
9 leaks. I was calling to report a SO3 leak.
10 There is SO2 involved as well. Whether or not
11 it was above reportable quantity, it is
12 impossible to tell visually because you can't
13 see it, and unless a calculation is done, it
14 is impossible to tell any kind of way.

15 BY MS. WEINER:

16 Q. That's your understanding?

17 A. Right.

18 Q. Okay. So my question was for SO2, what
19 you understood and all I wanted was what you
20 believe.

21 A. Right.

22 Q. What you believe the reportable quantity
23 is for SO2, you said that was 100 pounds?

24 A. I believe that it was after -- doing a
25 lot of research because of what's happening now, I

1 believe it is 100 pounds.

2 Q. And then for SO₃, what is your
3 understanding, as you sit here today, of the
4 reportable quantify for SO₃?

5 MS. BARNEY:

6 I am going to object again as vague
7 based on there is no statute that you are
8 tying that question to.

9 THE WITNESS:

10 I believe that there is a reportable
11 quantity for liquid SO₃ which would be -- we
12 also make at the Burnside plant which would be
13 a spill onto the ground and I want to say it's
14 like 100 pounds or 200 pounds. But I don't
15 think there is a reportable quantity for gas,
16 SO₃ in a gaseous state.

17 BY MR. WEINER:

18 Q. Okay. The lawsuit that you filed that we
19 are here about today is filed under the Toxic
20 Substances Control Act that DuPont has not
21 appropriately reported under TSCA. What is your
22 understanding of DuPont's reporting obligations
23 under TSCA?

24 MS. BARNEY:

25 I am just going to object. It calls

1 for a legal conclusion, but you can answer.

2 THE WITNESS:

3 I believe that not only were we
4 violating the RQ on SO₂, we were also
5 violating the law in regards to reporting SO₃
6 because I don't believe there is a reportable
7 quantity. I think any gas leak that the plant
8 has, they have a responsibility to report
9 because it is a toxic substance, highly toxic
10 substance carcinogen. I don't think there's a
11 reportable quantity. I think if you have a
12 gas leak, you report it.

13 BY MS. WEINER:

14 Q. Okay. And that's what I'm wanting to
15 understand was your view is because there is not a
16 reportable quantity, as far as you understand it,
17 for SO₃ under TSCA, that any leak --

18 A. Amount.

19 Q. -- of whatever size for SO₃ has to be
20 reported?

21 A. I believe that, yes.

22 Q. And based on that belief is why you
23 pursued this lawsuit?

24 MS. BARNEY:

25 I am just going to object to the

1 extent it calls for a legal conclusion or
2 anything beyond his layman's capacity.

3 THE WITNESS:

4 No. To be honest, when the leaks
5 happened, whether we were in violation, I
6 didn't know. I knew we had a duty to report
7 and I had no way of knowing whether DuPont was
8 reporting or not. I was under the impression
9 that they may not have been reporting because
10 of what Tom was -- told me initially when I
11 reported the first time, and led me to believe
12 that he was trying to hide the leaks. And
13 then when they came out with the document that
14 said we didn't have any environmental
15 releases, then I knew that they weren't
16 reporting it. So at that point, I felt like I
17 had to a duty to do something myself.

18 BY MS. WEINER:

19 Q. What document are you talking about that
20 they came out with saying they were having no
21 environmental issues?

22 A. This was an e-mail that he sent to all of
23 us on an intra-plant e-mail.

24 Q. Was that the ISO 14,000, that
25 certification e-mail?

1 A. I would have to see it. It is an e-mail
2 that I am pretty sure that we have.

3 Q. Who was the author of the e-mail if you
4 recall?

5 A. I think Kerry Long.

6 Q. So when you saw that e-mail, in your
7 mind, you felt confident that DuPont was not
8 reporting any leaks under TSCA?

9 A. I did. I felt -- I felt like it showed
10 that we had no environmental releases, so I
11 concluded that, yeah, they are hiding it.

12 Q. The leaks of SO₂, those are an acid mist,
13 right?

14 A. No.

15 Q. What do you understand them to be?

16 A. SO₂ is sulphur dioxide. It is not an
17 acid at all.

18 Q. All right. What form is it, liquid,
19 mist, vapor?

20 A. It is an aerosol. It is a gas.

21 Q. So the SO₂ is an aerosol or gas?

22 A. Uh-huh.

23 Q. Those are the leaks that you are -- that
24 are concerning you?

25 A. SO₂ and SO₃.

1 Q. Right.

2 A. Right.

3 Q. But those are the SO₂ leaks that are
4 concerning you that are happening at the DuPont
5 plant?

6 A. No.

7 Q. You are not concerned with the SO₂ leaks?

8 A. SO₂ and SO₃, both. Sulphur trioxide and
9 sulphur dioxide.

10 Q. Right. I want to take each one.

11 A. Okay.

12 Q. So -- but I understand you are worried
13 about both.

14 A. Okay.

15 Q. But you are not just worried about SO₃
16 leaks; you are also concerned about SO₂ leaks?

17 A. Correct. Because they haven't done any
18 calculations on that, either.

19 MS. BARNEY:

20 I am just going to object to the
21 form. It calls for a legal conclusion because
22 I don't know if SO₂ is listed under TSCA. He
23 is not an expert on that.

24 THE WITNESS:

25 My opinion is that they may be

1 violating both, but I don't know.

2 BY MS. WEINER:

3 Q. You said violating both --

4 A. The RQ on SO2.

5 Q. And the RQ on SO3?

6 A. If there is one.

7 Q. Which you've already said you don't

8 believe there is one.

9 MS. BARNEY:

10 Under what statute?

11 THE WITNESS:

12 I believe the RQ --

13 MS. BARNEY:

14 I'm going to object as vague.

15 MS. WEINER:

16 Under TSCA, that's what we talked
17 about and you said you don't believe there is
18 an RQ under TSCA for SO3.

19 THE WITNESS:

20 I believe the RQ deals with the gas
21 -- I mean deals with the liquid SO3 and not
22 necessarily the gas. Maybe it doesn't. Maybe
23 it deals with both.

24 MS. BARNEY:

25 I'm just going to make my objection

1 continuing because it asks for a legal
2 conclusion.

3 THE WITNESS:

4 There is clearly a difference in
5 severity to the public when you are talking
6 about a liquid on the ground or a gas in the
7 air. And I would think that DEQ would have
8 designated some type of difference there, but
9 I don't know. I am not an expert.

10 BY MS. WEINER:

11 Q. The leaks of SO₃ at the DuPont Burnside
12 plant are not liquid leaks?

13 A. They've had liquid leaks, but the ones
14 that we are primarily referring to are the gas
15 leaks.

16 Q. The ones that you believe are at issue in
17 your lawsuit are the gas leaks; is that right?

18 A. Primarily, yes.

19 Q. And those are -- are those also aerosol
20 leaks?

21 A. Yes.

22 Q. You said that it is impossible to
23 quantify and I want to separate them out. I know
24 that you're talking about both SO₂ and SO₃ leaks.
25 But do you believe it is possible to quantify an SO₂

1 leak?

2 A. I believe if you -- you can quantify it,
3 but you actually have to shut the plant down to be
4 able to do the calculations to -- it will be an
5 approximate calculation. There is no way you can
6 specifically quantify a finite number when you don't
7 know what's going on inside of the converter. You
8 don't know if there is an internal leak on the
9 exchangers.

10 Q. Why do you have to shut the plant down to
11 quantify a leak?

12 A. Because you are still leaking. If you
13 don't shut the plant down, how can you quantify a
14 number that's continuously increasing? It would be
15 an infinite number.

16 Q. Let's go back to where you said that
17 environmental report came out and said that there
18 were no environmental leaks. That's your
19 recollection of what the report said, right?

20 A. Uh-huh.

21 Q. Yes?

22 A. Yes.

23 Q. Okay. Did you go and talk to anybody
24 about that at that point and say, hey, have we
25 reported any of these leaks I am seeing on this

1 report, that you are saying we don't have any;
2 what's the deal? Did you talk to anybody at the
3 plant about that?

4 A. No. Based on the conversation I had with
5 Tom Miller, my plant manager, and the threat that he
6 made to me, I didn't feel that I could make -- that
7 I could have that kind of conversation with anybody.

8 Q. Okay. When you decided to file your
9 lawsuit claim that DuPont had not properly reported
10 under TSCA --

11 A. I had the conversation with Jane.

12 Q. Okay. Did you give notice of that
13 lawsuit, of your intent to file that lawsuit under
14 TSCA to anybody at the plant?

15 MS. BARNEY:

16 I will object to the form.

17 THE WITNESS:

18 No.

19 BY MS. WEINER:

20 Q. Did you give it to anybody at DuPont at
21 all?

22 MS. BARNEY:

23 I will object to the form.

24 THE WITNESS:

25 No. Prior to that, I would have

1 called the DuPont internal hotline and told
2 them what was going on. And they recorded the
3 conversation and the guy called me back and
4 wanted to ask me more questions. And at that
5 point, Jane had advised me that if they have
6 additional questions -- I had given them the
7 whole story the first time. If they had
8 additional questions, that they could speak to
9 her. And that's what I advised the guy.

10 BY MS. WEINER:

11 Q. Okay. In connection with your lawsuit
12 that you have pending now, do you have any facts or
13 evidence that DuPont submitted a claim to the
14 government for payment that was false?

15 MS. BARNEY:

16 I will object to the extent that it
17 calls for a legal conclusion, but you can
18 answer.

19 THE WITNESS:

20 Can you ask me that again?

21 BY MS. WEINER:

22 Q. Sure. Sometimes certain plants, if they
23 do government contracts or, you know, it happens
24 more frequently like hospitals who provide Medicaid
25 benefits to patients, then they will submit a claim

1 to the government to be reimbursed for what they
2 have done. So, you know, corporations can submit
3 claims to the government to be paid for, you know,
4 services provided and are under contract or
5 whatever.

6 Do you have any evidence that DuPont has
7 submitted a claim for any reason to the government,
8 the U.S. government, that was false, where they were
9 submitting it for payment, that DuPont would get
10 paid by the government?

11 A. No, I don't.

12 Q. With respect to the SO₂ and SO₃ leaks
13 that are the subject of your environmental lawsuit,
14 do you claim any exposure that has harmed you from
15 SO₂ or SO₃?

16 A. I don't know. I mean, I have been
17 exposed to SO₂ and SO₃ on numerous occasions over
18 the years. From what I understand by reading the
19 literature on it, you can be damaged from one
20 contact with it, but while all of this was
21 happening, for whatever reason, I ended up having to
22 go to my urologist because I had blood in my urine.
23 I don't know that that had anything to do with
24 anything. At this point, I have no idea. So is it
25 a possibility that I could have future problems?

1 Yes. We have a guy on the plant -- they have a guy
2 on the plant that got lung cancer that never smoked
3 in his life so I don't know.

4 Q. Who was that?

5 A. George Valentine.

6 Q. So as far as you sit here today, you
7 can't point to any specific health effects or
8 problems that you have that you believe are caused
9 by SO₂ or SO₃ exposure?

10 A. I don't know. I don't know if any of the
11 health problems I have had are due to that or if I
12 will have future problems.

13 Q. We had started to talk about mental
14 health treatment or counseling. When was the last
15 time that you saw a counselor?

16 A. It would have been with Percival Dyer,
17 and I want to say that would have been like -- I'm
18 just guessing -- sometime in the summer before I
19 left, like I left in August --

20 Q. The summer of 2012?

21 A. Yes.

22 Q. Those visits to Ms. Dyer at the time that
23 you were seeing her, those were being paid by DuPont
24 through their employee assistance program?

25 A. Yes. And I had a co-payment, yes.

1 Q. And then once you transferred your
2 employment to Shell, you didn't think it was
3 necessary for you to go see her any longer; is that
4 right?

5 A. No. It was like a rock was lifted off my
6 shoulders. I felt a lot better as soon as I got the
7 news that I was being offered a position.

8 Q. Okay.

9 A. So the stress of me left. And I had a
10 lot of stress from having to change jobs after 22
11 years and being 47 years old and now I am at the
12 bottom of the seniority list, but I welcomed it even
13 though -- it is stressful still to this day because
14 it is a different -- I mean, I guess anybody can
15 imagine if you work somewhere 22 -- you feel a
16 certain comfort level until all of this started, and
17 then now I am starting over.

18 Q. Did you say that you're making the top
19 pay for an operator at Shell that is possible; is
20 that right?

21 A. Not -- no. Once I get my board
22 qualification, I will be making the top pay, I guess
23 you would say. I think they call it -- I forget
24 what they call it, actually.

25 Q. What is the board qualification?

1 A. Guide rate, I think they call it. I'm
2 training right now to run the board.

3 Q. The control board?

4 A. Yes.

5 Q. How long does that training take?

6 A. Nine months.

7 Q. What is the top pay that you understand
8 operators can get if they are board qualified?

9 A. I think it is a dollar more so it would
10 be like 40-something.

11 Q. The lawsuit that you filed -- you said
12 you reviewed that in preparation for your deposition
13 today -- alleges that the leaks with SO₂ and SO₃
14 started in December 2011 and your allegations, as I
15 understand it, are that they are continuing through
16 today.

17 A. Uh-huh.

18 Q. You went on leave at the Burnside plant
19 in June of 2012 or late May --

20 A. Okay.

21 Q. -- of 2012 and then did not return, you
22 know, off that leave until your employment was then
23 terminated and you went to Shell?

24 A. Yes.

25 Q. What was your source of information as to

1 any leaks that were happening in that time frame
2 when you weren't physically on the plant anymore,
3 but you were still employed with DuPont?

4 A. I mean, I can -- I just -- at this point,
5 I am sure I would have been talking to the same
6 people, Percy, Rapp, Leo, Allen, maybe even some
7 other guys, you know. Two guys that I worked with
8 at the time were Ryan and Drew, Ron Townley.

9 Q. Ryan Tanley?

10 A. Ron Townley.

11 Q. Okay.

12 A. Yes. He doesn't work there anymore,
13 either.

14 Q. But that was who you were working with at
15 the time?

16 A. Yes. I was working with Ryan Becnel,
17 Drew Tabor and Ron Townley.

18 Q. When you went to do the second inspection
19 at the Burnside plant during the shutdown, were you
20 able to physically see any leaks or cracks in any of
21 the equipment that you looked at?

22 A. I can see gas coming out. I couldn't
23 physically see the holes. Is that what you are
24 asking?

25 Q. So we were out at the plant the first

1 week of October and you were there with your expert.

2 And you went up the scaffold and you said you were

3 able to see gas coming out on that day?

4 A. Oh, no. I am sorry. I thought you were

5 talking about -- you are talking about the

6 inspection?

7 Q. Yes.

8 A. No. We didn't see -- we didn't end up

9 seeing any actual cracks or holes. What we saw was

10 a lot of evidence of cracks and holes which is

11 sulfates and acid drips everywhere. The insulation

12 was still on probably 80 to 90 percent of the

13 vessels and you can't see through the insulation.

14 Q. You have the employment lawsuit that we

15 have previously have had talked about taking your

16 deposition and it is set for trial in February. You

17 have this environmental lawsuit. Do you have any

18 other lawsuits pending?

19 A. No. There was the workman's comp that

20 was associated with the employment lawsuit that --

21 my understanding is that that's been settled or

22 dismissed.

23 Q. Okay. Any other lawsuits pending or that

24 had been pending in the last two or three years that

25 you are aware of where you have brought the lawsuit?

1 A. No. Just the two.

2 Q. As a result of the leaks not being
3 reported like you think they should be under TSCA,
4 explain to us -- and to the extent that this may be
5 used in court for the jury -- how you have been
6 harmed personally from that.

7 A. As far as my damages, like, if any?

8 Q. Not so much your damages --

9 A. Are you're talking about --

10 Q. You know, how has that affected you, the
11 fact that DuPont hasn't reported those leaks?

12 A. It has affected me how I have been
13 treated when I reported the leaks. As far as them
14 not reporting the leaks, physically, it hasn't
15 affected me monetarily or physically, other than I
16 may have inhaled some gas, which I am pretty sure
17 that night I did.

18 Q. When you say that night, when are you
19 talking about?

20 A. When I came out when it started up.

21 Q. October 27th, 2012?

22 A. Yes.

23 Q. And that was -- I am sorry 2013. October
24 27th, 2013?

25 A. Correct.

1 Q. And that was almost more than a year
2 after you had filed your environmental lawsuit?

3 A. Yes.

4 Q. With respect to damages, because you
5 asked about that, how do you feel like you have been
6 damaged as a result of DuPont not reporting the
7 leaks?

8 A. Well, I have had to attain different
9 employment. I had to quit -- I had to quit my job
10 after 22 years. It was clear that I was never going
11 to be at peace at DuPont anymore and -- in
12 association with the first lawsuit and now the
13 second. And so all of management and my reputation
14 had totally been destroyed. Couldn't even get a
15 step down in pay. I couldn't get an office
16 administrator job. I had to give up my future
17 retirement, future 401(k) earnings, had to give up
18 my vacation. I only get two weeks of vacation and I
19 was getting five at DuPont, ended up having to take
20 a cut in salary initially, in addition to the mental
21 stress of being threatened and being written up
22 falsely, accusing me of things that were absolutely
23 false that I actually made threats, which I did not,
24 never did, that I was spreading false information,
25 which I think we have proven now that that was a lot

1 -- wasn't true. Just, yes, monetarily and
2 physically drained.

3 Q. You said that initially you took a pay
4 cut. Are you now at the same rate of pay that you
5 were when you left DuPont?

6 A. My rate of pay at DuPont I think was 35
7 or \$36 an hour.

8 Q. When you left?

9 A. When I left.

10 Q. Okay.

11 A. I don't know what they are making now.

12 Q. You mentioned the call that you had with
13 Percy Bell after you had called 911. Was that call
14 with Percy after the second call to 911 or was that
15 after the first call?

16 A. That would have been the second. That
17 was the second day, I think the 28th.

18 Q. All right. And I think we got off course
19 a little bit there. You were explaining to me you
20 went and had a beer that evening, then went back to
21 the parking lot to go see what you can see; is that
22 right?

23 A. Correct.

24 Q. Was anybody else with you when you went
25 to the parking lot?

1 A. Yes. They had the guy that was there the
2 night before, the security guard. He ended up
3 calling the other security guard. Evidently, there
4 is more than one on the site, and she came in and
5 said that she also was having irritation or whatever
6 because she breathed gas from the night before and I
7 guess they didn't even realize that it was still
8 leaking. But I told them, yes, it's still leaking
9 right now. I had video of it then. I am trying to
10 think who else.

11 Actually, Jane, you ended up --

12 MS. BARNEY:

13 The 28th, I am not sure.

14 THE WITNESS:

15 That would be the second day.

16 BY MS. WEINER:

17 Q. Okay. You think Ms. Barney also came out
18 on the 28th to witness what you were seeing?

19 A. Correct.

20 Q. Anybody else besides the Impala
21 employees, your lawyer and yourself?

22 A. The Impala supervisor showed up. There
23 was lots of other people there coming in to work and
24 stuff and also --

25 I am trying to think now. That might

1 have been in the morning. That's what it was. I

2 told you wrong. I need to correct something.

3 I told you I was working days. I would

4 have been working nights Monday night, I'm thinking.

5 And I had got off of work at 4:00 in the morning.

6 That's what it was.

7 Q. So Sunday -- we know that Sunday at 10:30

8 you are calling 911, Sunday, October 27th?

9 A. Okay.

10 Q. So you couldn't have been at work, I

11 assume --

12 A. Not Sunday.

13 Q. You don't recall calling from work --

14 A. No, not Sunday.

15 Q. Okay.

16 A. It would have been Monday night I worked.

17 Q. So you didn't report to work at all on

18 Sunday and then on Monday you believe you reported

19 at 4 p.m.?

20 A. That's what I am thinking. Because I am

21 visualizing now everybody coming in to work like

22 it's Tuesday morning.

23 Q. So do you think on October 28th you went

24 out --

25 A. I didn't have a beer. I know at some

1 point I went over there and had a beer and was
2 sitting and waiting and I can't remember.

3 Q. Could it have been the 27th when you were
4 talking to Leo --

5 A. No. Because I was on the phone with him
6 and I was driving and I saw it as I was coming. So
7 I am not -- I am getting that mixed up, I guess.

8 Q. So if you went to work at 4 p.m. on
9 Monday, you get off at 4 a.m. on Tuesday?

10 A. Right.

11 Q. Do you believe that you went out to
12 Impala to look at anything at all the morning of
13 October 28th or in the day before you went to work
14 that Monday?

15 MS. BARNEY:

16 To the extent you remember.

17 THE WITNESS:

18 No. I actually am pretty certain I
19 was working Monday night now. I would have
20 been off Sunday. I would have been off that
21 whole weekend, Friday, Saturday and Sunday,
22 and I would have went back to work Monday and
23 Tuesday night. So it would have been after I
24 got off nights Monday night. Since 4:00 in
25 the morning, I stayed over. It would have

1 still been dark and I went straight to --
2 that's why I was thinking initially I had went
3 straight there and I was thinking if it was 4,
4 it was still daylight, but it was morning, 4
5 a.m. It was dark and it was still leaking --

6 BY MS. WEINER:

7 Q. So you think Tuesday morning?

8 A. Yes.

9 Q. 4 a.m.

10 A. It was Tuesday morning, yes.

11 Q. So you called 911 Sunday night. You
12 don't do anything Monday?

13 A. Right, because I had to work.

14 Q. October 28th, you don't go out to Impala.
15 You don't see the Burnside plant. You don't go over
16 there.

17 A. Right. And that explains why you were
18 saying five hours of sleep and I didn't remember
19 only getting five hours of sleep. So I would have
20 been off that whole Monday. Went to work 4:00
21 Monday evening -- Monday afternoon. Got off at 4
22 a.m. and then I went straight there.

23 And I guess the Lipitor does affect my
24 memory.

25 Q. So you believe that it is between 4 and 5

1 a.m. when you get to the Impala parking lot?

2 A. Yes. It would have been like 4:15, 4:30
3 at the latest.

4 Q. And you said there are Impala supervisors
5 and employees?

6 A. Well, he came in, yes. When I first got
7 there, it was only that one night guard that I had
8 spoken to the day before or two days before. And he
9 called a girl that was a security guard on the other
10 side of the plant and she was saying that she had
11 the same problems. They were having some kind of a
12 sore throat and irritation, I guess. And then --

13 Q. You weren't having those problems,
14 though, were you?

15 A. I knew what it was, I mean.

16 Q. But you, personally, were you having any
17 physical problems?

18 A. Oh, yes. I was coughing and stuff. I
19 mean, I kind of hold my breath from walking around
20 and I get back in my car, you know. But I've been
21 working with it for 22 years and I always had
22 problems, not to this -- nearly to this extent,
23 but...

24 Q. All right. So what time does your lawyer
25 come to meet you Tuesday morning?

1 A. Probably would have called her pretty
2 early. Maybe about 5 or 6:00, maybe, something like
3 that.

4 Q. Okay.

5 A. 5 or 6.

6 Q. And she came out after that phone call --

7 A. Yes. I called 911.

8 Q. Who did you call first, 911 or Jane
9 Barney?

10 MS. BARNEY:

11 If you remember.

12 THE WITNESS:

13 I think I called 911.

14 MS. BARNEY:

15 I will just say for the record, the
16 telephone records are probably the best way to
17 get all of these times and dates because, you
18 know, it is a little harder to capture all of
19 that. So we can produce that if you want to
20 get accurate times of when he called who.

21 MS. WEINER:

22 That would be great.

23 MS. BARNEY:

24 Because it is hard to remember that
25 kind of thing and I don't want the record to

1 be unclear.

2 MS. WEINER:

3 Sure.

4 THE WITNESS:

5 Right.

6 BY MS. WEINER:

7 Q. So when we were talking about this
8 earlier in the deposition, you thought your 911 call
9 was -- the first one was on October 27th and then
10 the next one was on October 28th, but now you are
11 thinking it was the 29th?

12 A. Yeah.

13 Q. And you have seen the printout like
14 Exhibit #1 for that second 911 call?

15 A. Right. I don't recall the date.

16 Q. But you don't recall the date?

17 A. No.

18 Q. Why did you call 911 the morning of
19 October 29th?

20 A. Why? Because it was still leaking and I
21 didn't get to talk to the officer the first time so
22 I was going to make sure I talked to him this time.

23 Q. When you called 911, you spoke to the
24 dispatcher?

25 A. Yes.

1 Q. And what did you tell the dispatcher?

2 A. I told her I had called on Sunday night
3 and an officer had come out, but I had already went
4 home; I didn't get a chance to talk to him. There
5 was gas coming from the leaks in the plant, and,
6 evidently -- I don't know if I knew at that point
7 that they had called the plant or what I knew, but I
8 said I wanted to report that the gas was still
9 leaking. It is not as bad. It seemed as though the
10 plant had been cut back. The stack emissions which
11 is clear in the pictures, the stack was pretty bad.
12 That was pretty much gone, which is basically a
13 temperature thing. They had reached the temperature
14 where the stack disappeared. But there was still
15 gas coming from the leaks on the converter and the
16 two exchangers. The police came out and I actually
17 -- he wanted to see where it was coming from and I
18 showed him. I don't know that he understood what he
19 was seeing.

20 Q. So your testimony is that the leaks that
21 you saw on October 29th were from the converter and
22 the two exchangers, the HIP and the CIP?

23 A. As far as I know, yes. And it could have
24 been the super unit, too, unless they got a new
25 release.

1 MS. BARNEY:

2 I just wanted to clarify it is
3 probably the 28th and we are going to have to
4 get the phone records to get this straight
5 because the video that we produced to you is
6 dated October 28th.

7 MS. WEINER:

8 Fabulous.

9 MS. BARNEY:

10 That's why I am saying all of this
11 estimate of when he got off of work and when
12 he went in, I think the phone records and the
13 video is probably a better --

14 THE WITNESS:

15 Yeah.

16 MS. WEINER:

17 Okay. And that's fine.

18 BY MS. WEINER:

19 Q. I really just want to find out what you
20 remember as you sit here.

21 A. Yeah.

22 Q. And if it's convoluted, it's convoluted.

23 A. It's possible it is convoluted, yes.

24 Q. So just give me your best recollection of
25 what you think happened and then we can try to match

1 that up with the documents later whenever we get
2 them.

3 A. Yeah. Well, for whatever reason, if it
4 was the 28th, I am thinking that date is wrong. It
5 should have been the morning of the 29th. But we
6 will be able to figure that out.

7 Q. All right. So you call 911 and an
8 officer comes out and meets you where?

9 A. In the parking lot of Impala.

10 Q. Do you recall who that officer was?

11 A. I did not, but it is on the police
12 report.

13 Q. Was it just one officer or two?

14 A. It was one. No, there was an officer at
15 the Impala site when I called and he came over first
16 within a matter of minutes. And he said he wasn't
17 responding to the call, but just because he was out
18 there, he came on over and that another officer was
19 en route.

20 Q. Did you speak with both of them?

21 A. Yes.

22 Q. And you showed both of them what you
23 believed the leaks were?

24 A. I only showed the one that responded.
25 The other guy went back to his post.

1 Q. What did the responding officer say to
2 you?

3 A. He said that he could see what I was
4 describing, but he had no way of knowing whether
5 it's steam or gas leak and I tried to describe to
6 him how you could tell the difference. And I don't
7 think he got it because I read the police report and
8 it says that it all looked like steam to him so...

9 Q. How do you think you differentiate
10 between what's steam and what's gas?

11 A. Well, along with the fact that I know
12 where the steam comes from in a plant because I
13 worked there so long, steam is bright white and
14 dissipates very rapidly so you are talking about
15 maybe might travel five or six feet; whereas, gas
16 continues to disperse and spread out. The molecules
17 are just kind of drifting apart so it just continues
18 to travel. Never disappears. It just spreads out
19 and gets lighter and lighter in color until it
20 actually reaches the ground because it is heavier
21 than air, which is the problem.

22 Q. Is that what you explained to the police
23 officer?

24 A. Probably I did, yes.

25 Q. So the police officer said to you after

1 that explanation what, I am going to go talk to
2 DuPont; I am going to leave? What were his next
3 steps?

4 A. He said that he was going to talk to his
5 supervisor, see what they wanted to do. The
6 supervisor ended up showing up. I spoke to him. I
7 asked him if they didn't have a hazmat expert on the
8 force and he said that's him. And I said -- I don't
9 know if I said or he said, but he indicated that he
10 wasn't going to call Tom Miller because he didn't
11 like Tom Miller. That was his words.

12 Q. That he did or did not?

13 A. He said he did not like that guy. He
14 said he has other contacts at DuPont, that he was
15 going to contact one of them. I mentioned that I
16 hoped it wasn't George Valentine. He looked at me
17 like that and didn't say anything after that. So I
18 don't know whether it was or not.

19 Q. So the supervisor, your impression was
20 that he was going to follow up with DuPont -- with
21 somebody at DuPont, but he was going to choose who
22 he wanted to follow up with because he preferred not
23 to talk to Tom Miller?

24 A. Correct.

25 Q. And you don't know if his preference was

1 to talk to George Valentine --

2 A. I don't know. But I just kind of voiced
3 my opinion on that and I said, I hope it is not
4 George Valentine. And he turned and looked at me
5 real quick and he didn't say anything.

6 Q. Did you have any further conversation
7 with any officer?

8 A. No. They said they were going to be
9 right back and they left the site and I thought they
10 went in the direction of the plant, but I wasn't
11 sure. And after I did wait a good while, they never
12 came back. I ended up passing by in front of the
13 plant and there were no patrol cars out front or
14 anything so I didn't even know they went. But I did
15 find out from Percy after that they did go.

16 Q. Did Percy call you or you called Percy?

17 A. I think originally he called me, but for
18 whatever reason, I didn't get it or I didn't answer
19 and then I called him back.

20 Q. What did Percy tell you when he called
21 you? And I take it that this is after the second
22 night --

23 A. And I want to say Nathaniel called me
24 before that and told me that Percy was going to tell
25 me to back off or something. Because he couldn't

1 get me the first time, he must have called
2 Nathaniel. And so when he got on the phone, he
3 basically was kind of doing that. He was like, man,
4 you got these people running around like crazy out
5 here. And he went to say that and I said, Percy, I
6 said, what they are doing is not right. I said, it
7 is not like this is fun for me or something. They
8 got people -- they got probably a thousand people
9 showing up for work over here right next door
10 working on this new plant and we got gas. I said
11 the gas was so bad Sunday night, I said it was like
12 a fog all over this whole plant over there. And he
13 said, man, I know, but...

14 After that, it was just kind of -- didn't
15 really say too much else.

16 Q. Is your impression that Percy agreed with
17 you about the severity of the leaks that were
18 happening on October 27th and either the 28th or
19 29th?

20 A. He wouldn't have been there Sunday. I
21 think he was there -- he was there that morning and
22 he said he didn't see any leaks. He said when the
23 officer asked him about it, that he didn't see any.
24 And it could have been because of the daylight
25 coming up or it could have been my perspective. To

1 be honest, for whatever reason, when you're looking
2 out of that control room window toward the light on
3 the -- in the plant, you don't -- you just don't see
4 the leaks. And it was the same perspective that Tom
5 had that first time we reported the gas leak. He
6 was looking out of the shop door and he told me
7 where are the leaks? I don't see any leaks. Where
8 is the leak? I said, Tom, you need to ride to the
9 back of the plant where you can see the leak. When
10 you are away from the plant looking at it, you can
11 clearly see the gas coming from plant. Unless you
12 walk specifically straight up to the vessels which
13 you can see it that way, too, or if you zoom in with
14 the cameras, for whatever reason, those cameras pick
15 up the leaks very well.

16 Q. So Percy told you he didn't see any leaks
17 personally. What did he tell you about --

18 A. But he said they were leaking, but he
19 didn't see them. He thought the hoses were doing
20 their job.

21 Q. What did he specifically tell you about
22 stopping or backing off or whatever? What were his
23 words?

24 A. I kind of had cut him off. He said that
25 you are driving these people crazy and maybe you

1 ought to stop for a while or something like that, to
2 the effect and I kind of went -- I was explaining
3 myself, I guess. So I cut him off.

4 Q. How did you end the conversation, that
5 you were going to stop or that you were going to
6 keep doing what you were doing?

7 A. I said, no. Realistically, I had already
8 reported to the police. It was out of my hands at
9 this point. I didn't know what the police were
10 going to do.

11 Q. Other than going to get the two 911 call
12 records, have you followed up with the police since
13 that second call and visit that they did at the
14 plant?

15 A. No. I don't think -- my opinion is that
16 they are not going to do anything.

17 Q. But you haven't followed up with them
18 personally?

19 A. No.

20 Q. Have you made any other 911 calls
21 regarding DuPont Burnside operations since that one
22 that happened either the 28th or 29th?

23 A. No, I have not. I haven't had any
24 information from anybody that there is any visible
25 gas coming from the site other than they are still

1 leaking into the hoses and they can't determine that
2 it is not coming out of the hoses.

3 Q. Have you been back to video or personally
4 see any of the potential leaks that might be going
5 on since October 28th or 29th?

6 A. I did pass by one other evening and I
7 could not visibly see any gas coming from the plant
8 in regards to where the previous gas was coming
9 from.

10 Q. Do you know when that was, the time that
11 you would have passed by?

12 A. I would say within a week of the first
13 time.

14 Q. So a week?

15 A. I mean the first episode.

16 Q. October 27th?

17 A. Yeah.

18 Q. All right. Did you take any video on the
19 third pass-by?

20 A. No. I didn't see anything to video.

21 Q. No photographs?

22 A. No.

23 Q. Was anyone with you on that third
24 pass-by?

25 A. No.

1 Q. And at any time did any police officer or
2 member from the sheriff's department talk to you
3 about any frivolous 911 calls, like penalties or
4 problems if you were calling 911 without factual
5 basis?

6 A. No, no.

7 Q. In terms of your damages in this suit, we
8 talked about that a little bit, that you said
9 basically you had to go find another job. And that
10 was essentially what you told me when we took your
11 deposition in June of 2012 with respect to the
12 employment case, that, you know, it was getting so
13 bad that you -- at that point, you were
14 interviewing.

15 A. Right.

16 Q. You were looking for another job.

17 A. Yes. That would be right, yes.

18 Q. Right. And I think you said in both
19 circumstances -- I heard it today and I heard it
20 back in June 2012 -- that you can't separate out
21 what actions DuPont may have been taking because of
22 you standing up to your African-American co-workers
23 versus what actions they were taking because of your
24 complaints about the leaks; is that true?

25 A. What do you mean by separate out?

1 Q. In terms of your damages in this suit,
2 what I am trying to figure out is what do you think
3 DuPont did to you because you were complaining about
4 the leaks? And as I understand it, some of the
5 things you are saying they did to were also because
6 of retaliation of the company workers.

7 A. There is probably overlap. The only part
8 that's not overlap is the fact that Tom Miller would
9 have had nothing to do with the employment case. So
10 he would have not had retaliated on me because of
11 anything and didn't show any indication that he
12 wanted to. Prior to this, he was very respectful to
13 me. Treated me with a lot of respect, in fact.
14 Came to me on a lot of process questions and stuff
15 of that nature.

16 And the first indication that I had that
17 somehow I was going to have a problem in my work
18 relationship with Tom was the night of -- in
19 February 1st when I reported to Elizabeth Cromwell,
20 my supervisor, that first initial gas leak. And I
21 had never seen that side of Tom since he had been
22 there. He was enraged and basically threatened me.

23 Q. All right. Tell me about that.

24 A. Well, started from the beginning, I guess
25 I was in the back of the plant moving cars. Randall

1 Griffin was staying over to load an SO3 car. I
2 think he had gotten the job working days just to
3 load SO3 cars. That was his job, his primary job.
4 And he had been working over his normal hours. So
5 we came in for the evening shift. Randall was still
6 there. He asked me on the radio to come to the back
7 of the plant to help him move an SO3 car that he
8 needed to load. And so when I went back there, he
9 pointed me into the back into the direction of the
10 plant and he said y'all need to do something about
11 that gas getting back. And I looked back and, sure
12 enough, that was the first indication that I had
13 seen the -- sent up the gas leaks that I had heard
14 about. Because I had heard when I was on my
15 Christmas vacation that they were having bad gas
16 leaks and I used to take Christmas pretty much two
17 or three weeks a year every year through the end of
18 the year. So that would have been the first time
19 when my eyes saw when what they were talking about.

20 Q. So the first time you ever physically saw
21 any leaks was February?

22 A. February 1st.

23 Q. 2012?

24 A. 2012. Now, I had seen leaks before that,
25 but I am talking about this go-around. Prior to

1 Tom, I have seen leaks and had to take action. I
2 have already had to hit the emergency shutdown
3 button because of leaks. Different levels that --
4 and as an operator, we assess what level we think
5 they were going to take action accordingly.

6 Q. The time when you had to shut down the
7 plant for leaks, did -- that was not anything to do
8 with SO₂ or SO₃ leaks?

9 A. That would have been SO₃, yes.

10 Q. What time frame?

11 A. It might have been five or six years,
12 probably longer.

13 Q. What piece of equipment was that leaking
14 from?

15 A. It was a converter boiler. The gasket on
16 the manway cover had blown out and it was just so
17 severe that there was no doubt in anybody's mind,
18 just went back in the control room and hit the
19 button.

20 Q. Okay. So you and Randall Griffen are
21 having a conversation on February 1st, 2012 about
22 this leak. It is the first time you have seen one
23 personally yourself from this particular --

24 A. From this accident, yes.

25 Q. From these particular pieces of equipment

1 that are subject to your litigation?

2 A. Not necessarily the first time that I
3 have seen leaks from -- as a matter of fact, that's
4 false. I have seen leaks from those pieces of
5 equipment prior to that. This is the first time
6 since this new episode of leaks starting since Tom
7 has been there.

8 Q. Okay. What do you mean by this new
9 episode of leaks?

10 A. We have had leaks on the converter since
11 I have been there. Small leaks, some big. They
12 would try to put the vacuum hoses on and run through
13 the night or run -- I have seen them run through the
14 weekend. Shut down and weld on it and fix it. This
15 may be -- this may have been the first time I saw
16 leaks coming from the HIP and the CIP. That may be
17 correct. Because those were fairly new pieces of
18 equipment that we never had on the plant prior to
19 the DAR project, which is the dual absorption
20 retrofit project.

21 Q. If there were leaks on a converter
22 before, how come you didn't have any issues about
23 reporting with respect to those?

24 A. I always did. I've never not reported a
25 gas leak that I have seen.

1 Q. And you felt like management was handling
2 those issues appropriately?

3 A. Uh-huh.

4 Q. Did you feel like they were reported
5 appropriately under TSCA if they had to be?

6 A. I had no idea whether or not they were.

7 Q. So on February 1, you and Randall Griffin
8 are talking about the leaks and then what happens?

9 A. I called the control room and I told Ryan
10 -- I think it was Ryan Becnel on the board. I told
11 him that we needed to get Drew -- Drew Tabor would
12 have been the other outside guy. At that point, we
13 had just moved to a three-person shift. We used to
14 do a two-person shift, and I told Drew Tabor that --
15 I told him to tell Drew Tabor that he needed to go
16 out and look at this leak we had. It looked like --
17 it appeared to me that it was coming from the
18 converter at the time because I could see the gas
19 coming up from behind the converter. And see how
20 bad it was and if there was anything that we could
21 do, et cetera. We were going to be in the back for
22 at least another 30 minutes moving cars. And he
23 acknowledged that that's what he was going to do.
24 He was going to talk to Drew.

25 And after I finished moving cars, I came

1 in and asked him, did y'all look at the leak? Nope.
2 They hadn't looked at anything. So kind of said
3 let's go; let's go look at it. And so me and him
4 went out there and assessed the leak and I looked at
5 it and it was clearly going right towards the tank
6 car rack. There is a tank car loading rack where
7 Ron Townley would have been loading railcars. I
8 don't think he was back there loading railcars yet,
9 but I advised him that it would not be safe for him
10 to load railcars tonight in light of the fact that
11 these leaks were going right towards the tank car
12 rack. And it appeared to me that it could have been
13 going off-site.

14 Q. What was Drew's reaction to your
15 conversation with him?

16 A. Drew's reaction at first, for whatever
17 reason, he is like, I am not seeing what you are
18 seeing. I'm like how can you not see what I am
19 seeing? We zoomed in on the camera on it, and I
20 don't know if he was just scared to say anything.
21 He says, well, I don't see it going off-site. I
22 said, okay, well, I think it is going off-site and
23 that's my view of it. But, regardless, Ron Townley
24 saw what I was seeing and he said -- he asked me --
25 he had only been there a while. He asked me if it

1 was safe for him to be back there and I said
2 absolutely not, unless you are going to wear a fuel
3 acid suit with breathing mask and everything. And I
4 wouldn't recommend doing that, to be honest.

5 But I e-mailed Elizabeth and this --
6 there's two reasons, really, that I felt like I
7 needed to e-mail her. One being we had ongoing
8 problems with Elizabeth. Calling Elizabeth at night
9 when we had problems, we would never get a call back
10 from her. So much so that I would say virtually
11 every operator out there would agree with that
12 assessment, that they've actually had to have a talk
13 with her, with Tom that she needs to return our
14 calls. That was one reason I e-mailed her, because
15 somebody had e-mailed her prior to that and said
16 that she had responded right back to her when they
17 e-mailed her. So that was one reason.

18 And the other reason was in light of the
19 fact that prior conversations I had with DuPont
20 management had been since denied with my involvement
21 with the employment case. I said -- and Jane said
22 it was a good idea to get everything in writing.
23 So, hence, another reason why I wrote her an e-mail
24 and described what we saw. She did call me back
25 immediately after she got the e-mail, which I would

1 say within -- and it wasn't my intention to call her
2 or somebody else if I didn't get an immediate
3 reaction from her.

4 She did call me back within five minutes,
5 I would say, and asked, okay, what are you seeing?
6 What do you think the appropriate action would be?
7 What can I do? And I said, well, what we always do
8 when it is this bad is we started cutting the rates,
9 start cutting the plant back. And she agreed that
10 if we thought it was severe enough that we needed to
11 cut the rates back slightly, she said she did not
12 want -- I said if it is bad enough, we shut the
13 plant down. I said, what we need to do now, in my
14 opinion, is cut the plant back. Reassess, look at
15 it again, see how bad it is, did it help. And
16 usually cutting the plant back makes a big
17 difference. And so she agreed that's what we needed
18 to do. So she advised me to go ahead and start
19 cutting the plant back.

20 So I was making arrangements to do that.
21 I started actually heading out and communicated with
22 Ryan, my board man, we are going to start cutting
23 the rates back. I was put in the middle of the
24 process of pulling spent guns out of the spent
25 furnaces, part of how we cut the rates back, and

1 Ryan calls me and said, look, we got a change of
2 plans; we are not going to do this. And I'm like
3 confused; what do you mean we are not going to do
4 this? So I called him back and I said, come again.
5 I said, we are not going to cut the rates? No. He
6 said, you need to come back to the control room; Tom
7 wants to talk to you. So Tom had showed up at the
8 plant and I could tell by Ryan's voice that he may
9 not have been very happy.

10 When I got there, all of the guys were in
11 the control room and Tom was visibly angry and
12 immediately said, what the hell is going on? And I
13 said, what do you mean? I need to talk to you
14 outside in the storage room, he said. I said, can I
15 bring one of the guys with me? He said, no. I want
16 to talk to you by myself. And so we walked into the
17 storage room and he kind of just went off on me. I
18 don't know what you are doing. What you think you
19 are doing? You are playing games and where is the
20 leak? Kept looking at the door. He kept walking to
21 the door, which we keep that door kind of tied open
22 with a rope. Where you see these leaks? Where is
23 all the leaks? He said, I drove up; I don't see any
24 leaks.

25 I said, well, if you come to the back of

1 the plant with me, I will show them to me. I am not
2 going to back in the plant with you anywhere. He
3 said, I want to know what this is about. And I told
4 him basically what you see written in the logbook
5 and what was written in whatever e-mails I sent that
6 I was doing my job. I reported a leak like I have
7 always done 100,000 times.

8 Well, why do you have to put it in an
9 e-mail? Well, I don't care if you write it down,
10 but write it down on a piece of paper and put it in
11 your locker. Do you realize that when you write an
12 e-mail over our DuPont network, that creates a legal
13 document?

14 I said, well, it's not like I am lying in
15 the e-mail. I am telling you the truth. I said,
16 given the fact that you just terminated an employee
17 that was right in the middle of the employment case
18 that's going on, meaning Nathaniel Rapp, and from my
19 understanding, the only thing he did was report a
20 safety violation, I think I need to be very vigilant
21 about putting in writing everything I do out here,
22 especially in regards to things that I could be held
23 criminally liable for. I said, what's to make me
24 believe that if I didn't report that gas leak, y'all
25 wouldn't have came back out here and brought me in

1 the office and terminated me for not reporting the
2 gas leak.

3 Well, I am not here to terminate anybody,
4 is what Tom says. I don't know what makes y'all
5 think I am here to terminate people. I am here to
6 do my job. What is the big deal? People get
7 terminated every day.

8 I said, people may get terminated every
9 day, but I have been working with Nathaniel for 17
10 years and if he tells me he witnessed a safety
11 violation, I trust what he is saying, unfortunately,
12 a lot more than what I trust you right this minute,
13 less than a year ago. And from what I am seeing in
14 relation to DuPont management and how they treated
15 us, I do not trust DuPont management, DuPont
16 supervisors and -- until they make themselves
17 trustworthy. And to be honest, Tom, from what is
18 going on right now, that's not helping things.

19 He was like -- he said something to the
20 effect if you want to play games -- something about
21 who is the plant manager here, me or you? I said,
22 obviously, you are the plant manager. I said, I am
23 working for you. He said, well, I am telling you
24 there are no leaks and you are telling me there are
25 leaks. I said, well, you won't come to the back of

1 the plant so I can show you the leak. He said, did
2 you hear what I am saying? I am telling you there
3 is no leak, end of story. If you want to play
4 games, we can play games and see who lasts longer.
5 That's his exact words to me. And I said, I'm not
6 playing games. I feel threatened for my job. I
7 have been told to put things in writing. I think it
8 is important that I put things in writing. I said,
9 the last plant manager that was here lied about
10 things that was said to me. And it's obvious that
11 even after this conversation, he did not indicate
12 exactly what we were -- was said in the
13 conversation. So he did end up indicating that,
14 again, they were going to make up stuff.

15 Q. I am not following you about that they
16 were going to make up stuff.

17 A. Well, throughout this process Tom
18 pretended like I was doing things that I wasn't
19 doing. Like I was threatening people at work, which
20 was in my write-up. I was spreading rumors and
21 gossip, which is a lie. Never did that. Nothing
22 that was ever talked about in that plant was not 100
23 percent truth and was not plant related. And I am
24 trying to think other things that he said.

25 But by the end of the conversation, we

1 had both kind of calmed down because he came at me
2 pretty angrily. I had defensively built up my -- I
3 was angry, too. I mean, I was defending myself.
4 And so we kind of apologized, shook hands, went
5 into the control room. I purposely asked him again
6 in front of the other three guys -- because he said
7 -- he kind of said, if y'all have any concerns --
8 almost made it like we didn't know what our job was.
9 If y'all feel like y'all can't handle anything,
10 that's what we are here for. Y'all need to contact
11 us. Y'all don't need to be writing things down.
12 Y'all just call us and we'll -- I said, well, Tom, I
13 have been working out here 22 years. I have
14 responded to multiple gas leaks, multiple fires,
15 multiple emergencies, and I don't feel like I can't
16 handle -- I am sure there's things I can't handle.
17 This is not a thing that I can't handle. All you
18 have to do is come with me to the back of the plant
19 -- and I said it in front of them -- and we will see
20 the gas leak that we are talking about. I am not
21 going with you in the back of the plant. I told you
22 that. He said it in front of them.

23 So that was basically the end of that
24 story. We didn't cut the plant back. We kept
25 leaking. Then I found out -- I don't know if it was

1 the next day or sometime thereafter. I found out
2 that Mark Baha, who was in charge of the contract
3 group that would be adjusting the hoses and
4 mitigating -- trying to suck up the gas with the
5 hoses, that he had called Gene Clemons and told Gene
6 Clemons that -- because they were there when we
7 first got to work. Told them that they were not
8 able to suck up the leak, that it was more severe
9 than what the hoses were able to mitigate. I also
10 --

11 Q. This is the leak that you saw on February
12 1st?

13 A. February 1st.

14 I also forgot the fact that we had also
15 tried to process-wise to increase the vacuum on the
16 hoses, which we got the vacuum up from, if I
17 remember right, reading the documents that I
18 reviewed, it was 10 inches and we got it up to 20
19 inches. So we doubled the amount of vacuum on the
20 hoses and it still didn't stop. And, like I said,
21 DuPont already knew about it. Tom Miller no doubt
22 already knew about it because I am sure Gene would
23 have told him, asked him what do you want to do and,
24 obviously, they thought it was okay to run. And if
25 I remember right, that was a Friday. We can go back

1 and look, but I want to say we ended up running
2 through the weekend, the rest of the weekend like
3 that.

4 Now, they did come back out and try to
5 adjust the hoses some more, I understand.

6 Q. We have a logbook that's been produced,
7 logbook entry DFS 381. It says February 1st, 2012
8 and that shows that it is a Wednesday.

9 A. Okay. I stand corrected.

10 Q. Do you have an entry on that logbook for
11 the day -- for February 1st, 2012 that you made
12 personally?

13 A. An entry? Yes. I wrote this bottom
14 part.

15 Q. The paragraph that's on the bottom part
16 of the February 1st?

17 A. Also, this looks like it could be my
18 handwriting.

19 Q. Could you read the section that you think
20 is also your handwriting that's about it.

21 A. It says, "KBR working on gas leak on CIP,
22 left still leaking." This would have been written
23 prior to him coming in because we usually write it
24 in order and it takes the lines, you know, as you
25 write it down.

1 Q. The purpose of the logbook is to transfer
2 information from one shift to the other so that what
3 happened during one shift can be communicated or
4 memorialized for the next folks that are coming on
5 so they are kind of aware of what's going on at the
6 plant, right?

7 A. Correct. In the case that you may forget
8 to tell them something in your shift communication,
9 your shift turnover, or in the case that you need
10 shifts further down the line to be able to go back
11 because when you miss several days of work, you are
12 supposed to go back to the date since you were last
13 there and read all of the shift logs that were put
14 in.

15 Q. So if the purpose is so that the
16 operators can be up to date on operational issues,
17 why did you put in the paragraph that you did about
18 your personal discussion with Tom Miller?

19 A. Because I thought it was necessary for me
20 to defend myself in the stance that he took. When
21 he came in, he was very threatening and did not know
22 what was going to come of that. And every
23 indication that DuPont had given me before was that
24 they could take action against me again. And, in
25 fact, in reading some of the documents, there was

1 e-mails going between the human resource guy --
2 person and the plant manager into whether or not
3 they were going to terminate my employment. So I
4 was justified.

5 Q. You believe there are documents that have
6 been produced in this case that discuss terminating
7 your employment?

8 A. Yes.

9 Q. So you said that you put in that
10 paragraph to protect yourself, but it didn't have
11 anything to do with the operational issues for the
12 next shift coming on-site; is that true?

13 A. Not necessarily.

14 Q. How could it have had anything to do with
15 that?

16 A. This also let them know how management
17 felt about reporting the leaks and it also let them
18 know there was a leak and let them know that this
19 stack opacity may have been in question.

20 Q. Stack opacity has to do with the rate and
21 the process going on to produce the sulfuric acid;
22 the stack opacity is not going to be affected by
23 whether there is SO₂ or SO₃ leaks, is it?

24 A. It won't be affected by it, but it is
25 definitely a -- I don't know what the word is. It

1 is something that we have to visually inspect while
2 we are on shift. I mean, you can have the same
3 violation for stack opacity and have fines for that
4 as you would leaks, gas leaks.

5 Q. But two separate issues, right?

6 A. Two separate issues.

7 Q. Right.

8 A. Right. And I brought them both up in my
9 e-mail when I e-mailed her initially.

10 Q. Do you have any audio recordings of any
11 conversations that you have had with Tom Miller?

12 A. I did. None that I don't think we have
13 shared. I think we have shared them all.

14 Q. None that you have shared; is that what
15 you said?

16 A. None that we haven't shared.

17 Q. Okay. So you believe all of those have
18 been produced?

19 MS. BARNEY:

20 Yes.

21 THE WITNESS:

22 Yes.

23 MS. WEINER:

24 Okay. All right.

25 BY MS. WEINER:

1 Q. So any audio recording that you have of
2 Tom Miller you've turned over to your lawyer?

3 A. Correct.

4 Q. Do you have any audio recordings of any
5 other employees at the DuPont Burnside plant?

6 A. No. I have turned over everything to
7 Jane.

8 Q. All right. When I was asking you
9 questions about whether you knew the reportable
10 quantities for separating out SO₂ and SO₃, under any
11 statute or any information that you have, I want to
12 make sure that's how your response was. You said
13 that you thought it was maybe 100 pounds for SO₂ and
14 you did know or believe that there was a reportable
15 quantity for SO₃. Is that true generally under any
16 kind of information that you have?

17 MS. BARNEY:

18 Object to the form to the extent it
19 calls for a legal conclusion.

20 THE WITNESS:

21 I am not positive about RQ for
22 sulphur trioxide, whether or not it has to do
23 with the liquid form or the gas form or both.

24 BY MS. WEINER:

25 Q. There was no difference in your mind

1 depending on which statute --

2 MR. BARNEY:

3 I am going to object to the form.

4 BY MS. WEINER:

5 Q. -- that may apply as to whether there is
6 one reportable quantity on one statute or the other?

7 A. I have no idea.

8 Q. You don't have that separated out in your
9 mind?

10 A. I have no idea.

11 Q. Okay. That's fair.

12 Do you believe that Tom Miller was
13 involved at all in you not obtaining the
14 administrative position that you tested for in
15 April?

16 A. I do.

17 Q. Tell me about that. Why do you believe
18 that to be true?

19 A. I believe it because he was immediately
20 in Meta Smith's office before I went in for my test
21 taking and he was immediately seen on the camera
22 after I finished taking my test by me, personally,
23 on the hall camera right after I took the test. As
24 a matter of fact, when I walked up, I opened the
25 door coming into the office room and I heard him

1 tell Meta "Here he comes."

2 And along with the fact that
3 strategically it seemed like that position was made
4 very difficult to obtain and there were rumors that
5 the girl that's in the position now was overheard
6 saying that Meta was going to give us a doozy of a
7 test. She was telling everybody that she was going
8 to get the job and stuff like that.

9 Q. The girl who is in the position now was
10 going to get the job?

11 A. Tasha Eason, yeah.

12 Q. That's what Tasha was telling everybody
13 before the test was taken?

14 A. That was the rumor, yes. She didn't tell
15 me that.

16 Q. Have you talked to any police officers or
17 anyone from the sheriff's department? Other than in
18 connection with these two 911 calls, have you had
19 any other discussions with the police or sheriff
20 regarding DuPont Burnside operations?

21 A. Other than -- you mean the three?
22 Because I had called twice this last episode and
23 then the one time before.

24 Q. What was the one time before?

25 A. The guy actually came to my house --

1 MS. BARNEY:

2 In connection with Leo.

3 MS. WEINER:

4 I am sorry. I forgot that. Okay.

5 THE WITNESS:

6 No. Other than that, that's it.

7 MS. WEINER:

8 Okay.

9 THE WITNESS:

10 And I had gone pick them up at the
11 police station, pick up the reports.

12 BY MS. WEINER:

13 Q. Right. Did you speak with anybody who
14 would have investigated any issues at DuPont or were
15 you just talking to the clerk who prints the
16 reports?

17 A. In relation to the police department?

18 Q. Yes.

19 A. No. Just the dispatcher and the police
20 officer that showed up.

21 Q. They were -- the police officer that
22 showed up in response to the 911 call was also at
23 the station when you went to get the reports?

24 A. No. No, I didn't see any of those.

25 Q. All right. So when you went to go get

1 the reports, I assume you didn't have any
2 substantive discussion with anybody about the leaks
3 at the plant?

4 A. None at all.

5 Q. You were just requesting the reports?

6 A. Right, exactly.

7 Q. What about representatives from Louisiana
8 DEQ; have you had any discussions with them?

9 A. Yes.

10 Q. Okay. What discussions did you have with
11 them?

12 A. I am trying to think.

13 MS. BARNEY:

14 As best you can remember. Don't
15 guess.

16 THE WITNESS:

17 Yeah. And this is really vague. I
18 think I called the DEQ hotline and I would
19 have visited their website and may have did
20 some kind of on-line reporting. I am not a
21 hundred percent on that.

22 BY MS. WEINER:

23 Q. Do you know the time frame?

24 A. The DEQ would have been -- like I said, I
25 may have made some kind of contact with them while I

1 was still employed. I am not sure. And then I did
2 call when this happened on the 27th and 28th.

3 Q. One time or two times?

4 A. I think it was twice. I think I reported
5 it both times.

6 Q. Who did you call to report the issues on
7 October -- the issues between October 27th and 29th?
8 We will just leave it that way.

9 A. It was just a DuPont -- it was a DEQ
10 hotline.

11 Q. Did you speak with anybody personally?

12 A. Yeah. It sounded like it was like a call
13 center or a call -- because she said she was going
14 to contact DEQ like she wasn't associated with DEQ
15 or something. Because I called her back and I said
16 were you able to talk to DEQ and she said -- she
17 gave them the message. She has no ability or no
18 idea whether -- what response they will have. So
19 she couldn't tell me anything, basically.

20 Q. So is that the sum total of the response
21 that you had from DEQ for your calls?

22 A. For the first one, yes. And the second
23 one, she actually gave me like an incident number
24 and was a little more thorough. I think I was
25 actually speaking to a DEQ agent possibly. She

1 seemed to know what she was doing.

2 Q. So second call, you got an incident
3 number?

4 A. That's why, again, I believe it was in
5 the morning because they would have been on the job
6 probably Tuesday morning.

7 Q. Did you speak with that person who gave
8 you the incident number substantively about what was
9 happening at the DuPont plant?

10 A. I believe so, yes. I think I told her
11 basically what I knew and told her what had happened
12 on the Sunday.

13 Q. What did she say?

14 A. She said she was going to create an
15 incident number or case number and they were going
16 to do an investigation.

17 Q. Do you know if they did an investigation?

18 A. I haven't heard back from them.

19 Q. Did she say she was going to call you?

20 A. I don't remember. I don't know.

21 Q. Do you live across the street from George
22 Valentine's daughter?

23 A. No. She lives in my subdivision.

24 Q. Okay. So it's not directly across the
25 street?

1 A. No. She is on another street.

2 Q. Are you friendly with her?

3 A. I haven't been unfriendly to her. I have
4 seen them in the gym and I've talked to her husband.

5 Q. Okay. So as far as you are concerned,
6 you believe your relationship with her is cordial?

7 A. Yes. I haven't -- as a matter of fact,
8 her son had come to our house before to jump on the
9 trampoline.

10 Q. Is that recently that he has come over to
11 your house?

12 A. No, not recently. This would have been
13 before any of this happened.

14 Q. Before you filed any lawsuits?

15 A. Right, yes.

16 Q. Do you believe that leaving DuPont's
17 employment has fully cured you of the anxiety that
18 you were having when you were on plant at DuPont?

19 A. Leaving the plant? I believe that I am
20 100 percent better. Am I constantly worried of this
21 happening again at another place? Possibly but from
22 what I see of Shell, it is a 100 percent reverse. I
23 mean, they take this type of thing to an extreme.
24 Any release at all, it is reported. They make it
25 public that the whole plant is -- it is a much

1 bigger plant, but they have departments that just
2 deal with that. I'm very impressed in the
3 difference.

4 Q. Okay. Do you have to take periodic drug
5 tests at Shell?

6 A. Uh-huh.

7 Q. And you have to do that at DuPont, too,
8 right?

9 A. Right.

10 Q. Have you ever failed any of those, ever?

11 A. No, no.

12 Q. I asked you about your familiarity with,
13 you know, Homeland Security requirements and you
14 talked about that before, I think, in your prior
15 deposition, that you would have to make checks
16 around the perimeter of the plant while you were
17 working at DuPont.

18 A. Right.

19 Q. And you had a checklist that you were
20 supposed to complete as part of that; is that right?

21 A. Correct.

22 Q. Those checklists, are they supposed to be
23 completed by the person who is actually making the
24 assessment around the plant?

25 A. I don't know whether or not that's a rule

1 or not.

2 Q. I mean --

3 A. I would think, yeah.

4 Q. There is a place where you have to sign

5 off on it and you have to say, yeah, I've done --

6 A. I think so, if I remember right.

7 Q. Because part of it, you have to go check

8 the fences and make sure they are all up?

9 A. Right. You have to drive around the

10 whole fence and make sure that it is mainly for

11 Homeland security, make sure nothing unusual like a

12 hole in the fence or damage to the fence, nobody

13 coming in for sure, that kind of thing.

14 Q. And I assume there is some form that you

15 have to sign off to say, yes, I am the one that did

16 the check; everything was fine?

17 A. Yes. I think there is a line for a

18 signature at the bottom, I believe, yes.

19 Q. Have you ever signed that for someone

20 else who made the check?

21 A. Not that I am aware of.

22 Q. Okay. Would that be a violation of

23 Homeland Security procedures for someone else to be

24 signing the form that someone else --

25 MS. BARNEY:

1 I object to the form.

2 THE WITNESS:

3 I have no idea. To be honest, I
4 don't think anybody even looks at the form,
5 but maybe it is. They never told us it was.

6 BY MS. WEINER:

7 Q. All right.

8 A. As a matter of fact, most of the people
9 don't even fill it out. I was one of the ones that
10 did.

11 Q. In connection with your employment with
12 Shell, I take it you have not taken any disability
13 leave while you have been with them?

14 A. No. Hopefully, we won't ever.

15 Q. When you had the conversation with Tom
16 about the first leak that you personally saw,
17 February 1st, 2012, did he tell you at that point "I
18 want you to fill out a first report"?

19 A. No.

20 Q. When did it start being the practice that
21 the plant wanted a first report when they saw --
22 when anybody saw those types of leaks?

23 A. I believe -- and I was thinking about
24 that the other day. I believe that it was either
25 the second time we had a leak or we were in the

1 control room with a group of different guys and Tom
2 was talking about -- we asked him what is the
3 procedure. What do you want us to do? And he said,
4 well, there is a first report or something like
5 that. And I had asked the question at some point
6 during that conversation. So every time we have a
7 leak, no matter the size or quantity, whatever, you
8 want us to fill out a first report and he said not
9 necessarily. This is why we pay y'all a lot of
10 money. If you think that the leak is not going
11 off-site and it is not bad enough, you don't -- you
12 just have to make a note of it in the log or just
13 tell your shift relief to keep an eye on it; you
14 don't have to do anything.

15 So that was my position after that. But
16 he did at that point show us the book, which I had
17 never seen before. In the control room, there was a
18 manual and it had a bunch of blank forms in it and
19 basically was when he was talking about a first
20 report. My understanding is that Tom -- they had
21 that at other sites where Tom was. And I always
22 knew that we had incident reports, but they were
23 always filled out by management and we never filled
24 any of that out.

25 Q. So as an operator before February 1st,

1 2012, you had never filled out a first report?

2 A. I had been involved in an incident
3 investigation where a report was compiled, I guess,
4 and we actually -- when we had a big fire on the
5 plant -- I think we talked about that in the other
6 thing -- I was involved. And there was an incident
7 investigation with everybody involved, everybody
8 that was there, and we all discussed the timeline,
9 how things took place and what happened, what action
10 was taken and primarily to see how you can improve
11 and for reporting purposes. And then it was an
12 incident report that came out of that that was
13 distributed to the plant. And that was one time I
14 can recall. But there's been other times that I was
15 involved. I never filled out one.

16 Q. Is that true, as you sit here today, that
17 you've never filled out a DuPont first report form?

18 A. I have now.

19 Q. Okay.

20 A. But prior to Tom showing us this manual
21 that they had put in the control room, I had never.

22 Q. So time frame of when that discussion
23 happened with Tom Miller, obviously, it was after
24 February 1st, after your --

25 A. After the first one for sure.

1 Q. Do you think it would have been like in
2 March?

3 A. It could have been the second one. I am
4 not sure at that point whether it was the second or
5 third one. It was after we were having more leaks
6 that he told us that, look, y'all need to be filling
7 out this first report. Because the first time when
8 he came there, he told me he didn't want it written
9 down anywhere. He said, if you write it down, you
10 can put it in your locker. I don't care if you do
11 that, but don't put it in the red book and don't put
12 it on the computer system. And he didn't tell me
13 anything about the first report at that point.

14 Q. That was in February?

15 A. February.

16 Q. February 1st?

17 A. Yes.

18 Q. All right. Let me show you another
19 logbook entry for February --

20 MS. BARNEY:

21 I'm sorry. Do you mind if we take a
22 two-minute bathroom break?

23 MS. WEINER:

24 No. That's fine.

25 (Recess taken.)

1 BY MS. WEINER:

2 Q. Let me show you DSF 390 which is the
3 logbook from February 19th. And is there any
4 handwriting on this one that is yours, that you
5 recognize as yours?

6 A. This looks like it could be mine, kidney
7 test.

8 Q. On the 20th?

9 A. Yes. Jeff, Ryan, Jeff off medical, it
10 says. Kidney test. I may have written that after.

11 Q. Okay.

12 A. No, that's it.

13 Q. Okay. What I am wanted to ask you about
14 on this page was if you see where it says A shift on
15 the Monday, February 20th entry, there is an I over
16 Terrence's and zero or O --

17 A. Outside.

18 Q. So tell me what those designations mean
19 about each of those person's names?

20 A. That would be who was inside, who was
21 outside, and X I have no idea. RC is probably
22 railcar and then T would be probably trucks. I am
23 guessing maybe he was on the barge or something. I
24 don't know. I have never seen an X.

25 Q. Okay.

1 A. We don't all use it, obviously, but some
2 people do that, kind of explain. The order of --
3 usually the inside guy is always the first one and
4 then the outside guy. And the inside guy usually
5 writes that down.

6 Q. The inside guy is working in the control
7 room?

8 A. Yes.

9 Q. So when we see those kind of designations
10 throughout logbook entries, that's how we can
11 interpret them?

12 A. More than likely that should be correct,
13 yes.

14 Q. Before the break, we were talking about
15 when it may have been explained to the operators
16 that they should do a first report for any leaks
17 that they saw on-site. The incident reports that we
18 have produced, the next one that I see after
19 February 1st, which would have been your
20 conversation directly with Tom Miller, is DSF 66,
21 which is an incident report dated 3/18.

22 A. Okay.

23 Q. That particular one was prepared by Gene
24 Clemons. Do you think this would have been after
25 Tom had that discussion of let's go ahead and use

1 first reports for these leaks?

2 A. Probably. And I'm not too sure if I
3 didn't report this.

4 Q. And tell me about that procedure. So
5 this initial incident report is what Tom was saying
6 he wanted you guys to use going forward, right?

7 A. Right. And there would have been a book,
8 like a manual similar to the one you have there with
9 a bunch of blank copies of these forms. And we were
10 to fill it out as the -- he called it a first
11 report, I thought, but I didn't -- maybe this is
12 something different. But we were -- as the first
13 person or the initial person on the scene to see --
14 to describe right there when they saw something
15 happen. And this looks like something that was
16 created after because he says here "Operations
17 called maintenance to report a gas leak." So there
18 would have been -- should have been a form like this
19 filled out by the actual operations that called to
20 report the gas leak. And then this looks like just
21 their interpretation on whatever the events that
22 took place.

23 This is more like what they used to do.
24 We would verbally tell them what was going on and
25 then they would fill out a form after they did the

1 investigation with the people that were there. And
2 then they would produce it. Like, we never produced
3 this. But now he wants us to produce it. But then,
4 depending on who you are, he may redo it. Like, in
5 the case of mine, I think he redid most of them.

6 Q. Why do you believe that he redid most of
7 yours?

8 A. Because you would end up getting one like
9 this that was typed or something and my signature
10 wouldn't be on it and it would edit everything I
11 put.

12 Q. Did you see those after the fact? You
13 know the ones you did and then you saw the ones
14 after the fact that you believe were changed?

15 A. Yes. I made copies of all of mine, so...

16 Q. All right. So those copies I believe
17 have been produced to us. You provided those copies
18 to your lawyer?

19 A. I think I provided all of them.

20 MS. BARNEY:

21 Let me just show you what's here.

22 They're actually attached. We had a
23 discussion I think in the meeting and
24 conferred about edited and unedited first
25 reports in some of our written discovery. So

1 I have a copy of the complaint here that was
2 attached to the complaint and some of the
3 reports that I think he may be referring to.

4 BY MS. WEINER:

5 Q. So your lawyer has handed me the group of
6 documents that was your initial complaint and this
7 Exhibit H to your initial complaint is dated
8 3/19/12. So that would be after this one that I
9 showed you, this 3/18/12?

10 A. What is this? It is a date -- date
11 reported.

12 Q. The date reported would be the next day.

13 A. Okay. It probably was the morning, yeah.
14 I might have worked that night.

15 Q. But this is your --

16 A. This would have been the first one of --
17 evidently. He would have redid this.

18 Q. All right. And when you say he would
19 have redone it, the name at the bottom here --

20 A. Gene.

21 Q. -- it says reported completed by Gene
22 Clemons.

23 A. Yes.

24 Q. This is the first initial report that you
25 recall ever doing with respect to a SO2 or a SO3

1 leak?

2 A. If that's the date y'all have as the
3 first one.

4 Q. Well, I don't know whether it is the
5 first one. That's why I am asking you if you recall
6 any --

7 A. Yeah. I imagine it is, unless we find
8 out otherwise. But, yes, may have been.

9 Q. Okay.

10 A. I know we had the February leak, but I
11 didn't do one then and I wasn't told to do one.

12 Q. So -- and that's what I am trying to nail
13 down is we think that somewhere between February 1st
14 and March 19th would have been the time, somewhere
15 in there, Tom Miller told the operators I want you
16 to start doing first reports --

17 A. Right.

18 Q. -- when you have a leak?

19 A. Right.

20 Q. And is that the procedure that you
21 followed thereafter?

22 A. Pretty much. Other than, like I said, I
23 asked him during that time when he was telling us we
24 need to do these, I wanted clarification, so you
25 want us to do a first report on every leak we see no

1 matter the size? He said, no. If it is small
2 enough or you don't think it's important enough or a
3 risk to anybody or anything, you can just pass it on
4 to your relief in the log or just tell them verbally
5 and we don't have to make a first report. That's
6 why we pay y'all a lot of money to make judgments
7 like that, so...

8 Q. Right.

9 A. That's from -- and I do believe there was
10 leaks after that that I did that. I just wrote them
11 in the book and then I got written up for that
12 because I didn't make a first report.

13 Q. Take a look at this is on DSF 408. If
14 you will look at the entry on -- for the 27th where
15 it says, "Nightshift monitor SO3 leak on the east
16 side," is that your handwriting or is that someone
17 else's handwriting?

18 A. That's not my handwriting. There is --
19 nothing on here is my handwriting.

20 Q. So when the practice started with the
21 operators completed the initial incident report,
22 then who did you give that piece of paper to? What
23 was the procedure about where it had to go?

24 A. I would have put this -- I would --
25 first, I would have had to contact Elizabeth, my

1 supervisor. And if I couldn't get her, then I would
2 contact either Gene or maybe -- I know there was one
3 time I contacted Kerry Long himself. Right here, it
4 says I contacted Kerry Long.

5 Q. This is in addition to doing the initial
6 report is you also make a verbal contact with
7 somebody?

8 A. Right. Because she had no way of knowing
9 that we had this unless we call her. So that's what
10 he instructed us to.

11 Yes. So I would have called them and
12 then it said I contacted Kerry Long and Liz Cromwell
13 and they had Lonnie and crew come out to work on the
14 leak.

15 MS. BARNEY:

16 For the record, you are referring to
17 Exhibit H to the complaint?

18 THE WITNESS:

19 Yes.

20 What was the question? You want to
21 know what --

22 BY MS. WEINER:

23 Q. What I wanted to know, once you complete
24 that report, what are you supposed to do with it?

25 A. So then this would go into our -- there

1 is like a bin that we put all of our paperwork from
2 truck loading and tank car loading and any other
3 paperwork like this and our logs and stuff, put it
4 all in that bin. And then in the morning, I think
5 Tasha comes and grabs all of the paperwork,
6 separates it and gives it to whoever it pertains to.
7 So I don't know if this goes to Elizabeth or Gene or
8 who.

9 Q. The initial incident report is the -- the
10 mechanism is supposed to be the first notification
11 to supervision of a problem at the plant?

12 A. Correct.

13 Q. And then from that stage, is it fair --
14 is it your understanding that then supervision
15 decides if further action needs to be taken as a
16 result of that?

17 A. Yes. There should be like an
18 investigation where they meet together, yeah. I
19 would think you would involve somebody that was
20 there.

21 Q. So sometimes as a result of initial
22 reports, there may be an incident investigation?

23 A. Yeah. I am not sure. You would have to
24 talk to one of the members of management on how they
25 assess that, but I would think if you are

1 instructing us to make this report, that you would
2 at least speak to the guy because let's say -- let's
3 say it was really, really severe and it was
4 definitely above an RQ and we were able to mitigate
5 it that day night or fix the problem that night, how
6 would you then know to report it if you didn't speak
7 to the people that were there witnessing it. You
8 wouldn't know.

9 Q. Do you recall how many first reports like
10 this you filled out before you went on leave?
11 Assuming this is the first one March 19th and you
12 went on leave at the end of May, beginning of June
13 2012, do you know how many of these you would have
14 completed?

15 A. I'm just guessing maybe four or five.

16 Q. When you -- assuming that this was the
17 first report that you made and that Gene then took
18 your information and changed it into here, when you
19 reviewed these two documents, is there anything that
20 you believe he is reported incorrectly or not
21 included based on what you had initially put down?

22 A. Well, I guess that he interpreted the
23 area to be where the leak was coming from. I
24 interpreted -- nobody instructed us on how to fill
25 these out, but I interpreted the area to be the area

1 that the gas was falling out onto because there is
2 sugarcane all around us, too, and the gas covers the
3 sugarcane. The sugarcane goes to get processed and
4 who knows what that does. But I basically put the
5 direction the gas was going.

6 The description of the facts --

7 MS. BARNEY:

8 I guess I will object the documents
9 speak for themselves. If there is some
10 importance that he can put on different parts.

11 THE WITNESS:

12 Yes. I mean, he said it was
13 reported that the gas was not traveling past
14 the fence line in his report. And on mine, I
15 put "SO3 leak crossing fence line towards
16 Ormet and making" -- I meant I was making
17 nightly security perimeter inspections as per
18 Homeland Security regs. So I would have been
19 right on the fence line and so I don't know
20 where or how he got that.

21 "Immediate action taken. KBR
22 personnel repaired the insert and the leak was
23 contained." So that would have been the next
24 morning. This was reported at 8:00 the
25 previous night so that's not an immediate

1 action.

2 I put "We noticed that leak was
3 getting off-site and the truck would not move.
4 It was stuck in the mud. So there was no
5 action taken."

6 I'm assuming they didn't have us cut
7 the plant back or anything.

8 "Environmental deviation," he put
9 "not applicable."

10 I put "SO3 release." I contacted
11 Kerry Long and Liz Cromwell and they were
12 going to have Lonnie and crew fix the leak.

13 "Chemical release," he put "a small
14 amount of SO3." I put "SO3."

15 So some of it is okay and the others
16 I think -- I don't know where he got the
17 information he put.

18 BY MS. WEINER:

19 Q. Okay. And that's what I wanted to find
20 out. Did you ever talk to him after he had prepared
21 this report and, say, how did you find out it was a
22 small amount leak? Did you have Kerry Long do any
23 further investigation?

24 A. No. As a matter of fact, I remember when
25 they printed this out telling people in the control

1 room that this is totally fabricated and that I

2 didn't --

3 Q. Who said it was totally fabricated?

4 A. I did.

5 Q. Okay.

6 A. I said that's not what I reported at all.

7 Q. But you don't know what additional

8 investigation may have happened between when you

9 reported it and when Gene prepared this?

10 A. No. But he wasn't there. I reported it

11 at 8:00. So nobody talked to me about it and I

12 didn't talk to them because I felt threatened by

13 actually them doing this. No.

14 Q. Had you ever been -- you said you felt

15 threatened by Gene doing that report --

16 A. Well --

17 Q. -- you hadn't had any problem with Gene

18 directly?

19 A. I didn't feel threatened by Gene other

20 than Gene approached me once after he had taken the

21 role of maintenance coordinator, and I had went home

22 the day before because I had a real bad headache.

23 It was like a splitting headache which I never get

24 headaches. And made a doctor's appointment the next

25 day. I went to the doctor and the doctor suggested

1 that I had pulled muscles in my neck. And I was
2 working on railcars at the time. And so when I come
3 back to work, I told him -- you know, I gave him my
4 doctor's thing from having left work that showed him
5 that it was an actual injury or whatever or that I
6 had seen a doctor and the doctor had pulled muscles.
7 And Gene had asked me to come outside and advised me
8 that the plant was going to have a loss of work day
9 if I continued to suggest or give my diagnosis by
10 the doctor that I had pulled muscles in my neck.
11 And I said, well, Gene, what do you want me to do?
12 You want me to make up something? And he said, no.
13 He said, I know you are already on thin ice out here
14 and, I mean, I don't want anything worse to happen
15 to you. So I said, well, I am certainly not going
16 to lie; I am going to tell the truth because if I am
17 on thin ice, you think I am going to lie? Well, I
18 know; just think about what you are doing. So I
19 interpreted that as he wanted me to do the wrong
20 thing, which I did not.

21 I went to Dr. Bailey. I couldn't come
22 back to work until I saw the DuPont doctor and the
23 DuPont doctor was like what's all of this about or
24 something to that effect. And I said, I went to --
25 I left work the other day because I had severe pain

1 shooting through my head all of the way to the front
2 of my head. And when I spoke to the doctor about
3 it, I actually went to a -- what did you call them?
4 A brain doctor. I can't think. Anyway, I went to
5 the doctor and he narrowed it down to these neck
6 muscles being pulled.

7 First, Dr. Bailey said, oh, yes, you
8 probably had a headache and I told him the doctor
9 had narrowed it down to the -- no, I'm sorry. It
10 was the other way around. I had told him the doctor
11 had diagnosed it as the neck being -- muscles being
12 pulled. He said, well, sure. He said, what were
13 you doing or whatever. I said, I was working on the
14 railcar and he said, well, yeah, that will --
15 pulling down low like that. But I said, why would
16 my head be hurting me here? He said, well, all of
17 that is connected and he explained the medical
18 reason why you could actually be feeling it all
19 through your head. And he said, what's the big
20 deal; what's the big deal? I didn't know there was
21 a big deal. I said, I guess I need to see you
22 before I can go back to work. He said, that's no
23 problem. And I said, they did tell me that it may
24 be a loss work day and he said oh, well, it was
25 probably a headache and, you know --

1 Q. This is Dr. Bailey?

2 A. -- we'll put it down as a headache. So I

3 think he changed it to it was a headache --

4 Q. All right.

5 A. -- at that point.

6 Q. When did that happen?

7 A. I don't know. I would think, if I had to

8 guess, somewhere in 2011, maybe.

9 But to answer the -- a long drawn-out

10 conversation of why I feel threatened by everybody

11 in management, Gene is a nice guy. And I can't say

12 he has never treated me nicely, but do I trust him?

13 No. And after seeing this, I certainly wouldn't

14 trust him in regards to how he edited the initial

15 incident report that I made.

16 Q. All right. Are you related to Dr. Bailey

17 at all?

18 A. No.

19 Q. So the outcome was there was no lost work

20 day from whatever problems you were having with your

21 neck; is that right?

22 A. As far as I know, yeah.

23 Q. Let's talk about the disciplinary actions

24 that you had at the plant before you went on your

25 leave at the end of May, beginning of June of 2012.

1 So I am just talking about 2012 at this point.

2 A. Okay.

3 Q. I will show you DSF 685 and 686 and it is
4 just a note that says it was a corrective action,
5 verbal contact February 16, 2012 that the customer,
6 Syngenta, received an out of spec shipment, due to
7 the wrong product load being loaded into the truck.

8 A. Uh-huh.

9 Q. Do you recall being talked to about that?

10 A. Yes. Elizabeth had talked me very
11 briefly and I don't recall if it was a month or
12 several months before they actually wrote me up for
13 it. But it was a good bit, at least a month prior
14 to it. Basically, it was like just a conversation
15 in passing. She said there was a Syngenta load that
16 was loaded and the bill was signed by you so you
17 loaded it. They are claiming that they received the
18 wrong product. She said we don't even know if
19 that's true because we went to check the sample that
20 you caught and all of the samples had been dumped so
21 don't worry about it, no big deal. But she said, I
22 have to let you know because this is not the first
23 time it's happened.

24 Q. Okay.

25 A. Well, I found out afterwards that it

1 actually had happened several times and that one of
2 the primary reasons was that the paperwork, the bill
3 that we go by to fill the orders had the wrong
4 product code on it and that Nathaniel Rapp had
5 already tried to get the product code changed by
6 Meta Smith because it had been input wrong. And the
7 only reason we knew that was because the truck
8 drivers were telling us when it came in that they
9 don't take this product. They take a different
10 strength of acid. And when he went to correct the
11 problem, Meta Smith said whatever the computer says
12 to load, load it. And so he wrote that on his bill
13 that he had that conference with Meta.

14 Well, George was still over operations at
15 the time. He had approached Nathaniel -- and this
16 was after the employment case stuff -- that we have
17 a little problem; you loaded the wrong product on
18 this shipment. And Meta had told him that he had
19 entered the wrong product, but she had forgot about
20 the fact that he had approached her. So he had a
21 copy of the bill in his locker where he had wrote
22 and initialed that on this day he had spoken with
23 Meta Smith. He gave the copy to George and George
24 said, oh, oh, don't worry about it. We are going to
25 handle it. And I never heard about it again. So it

1 was obviously some kind of disconnect in what
2 product was supposed to be loaded.

3 Also, there was another one of my
4 co-workers, Renee Becnel, had the same issue where
5 Elizabeth had came to him and told him he unloaded
6 two loads that had the wrong product going to
7 Syngenta and she told him the same thing, don't
8 worry about it; we think it is Syngenta is getting
9 the information wrong or something to that effect.
10 And I checked after they wrote me up for it a month
11 or two later did they write him up and they hadn't.

12 Q. They hadn't written who up?

13 A. Renee Becnel.

14 Q. This information right here, it says date
15 February 16th, 2012. I want to make sure I'm
16 understanding your testimony correctly. You are
17 saying about a month earlier was when she actually
18 spoke to you about it and she didn't get around to
19 writing it down until February 16th?

20 A. I have no idea about those dates. This
21 is in the write-up when they wrote me up. I don't
22 know if that's the date of the write-up or is that
23 the date of the actual load. I have never seen this
24 document before. There is the actual write-up where
25 they included that in the write-up and my response

1 afterwards to H.R., because an H.R. representative
2 told me I had a right to respond to every part of
3 the write-up. There were multiple pages of things I
4 had supposedly done wrong and I had to write the
5 response to each one individually, which I did, and
6 we have a copy of that at the time. So you get a
7 better assessment of what actually happened at the
8 time. That is basically the story I described.

9 Q. Right. Yes. And we have your response
10 on the write-up, but as I am recalling, that is in
11 April.

12 A. Okay.

13 Q. April of 2012?

14 A. Okay. So I would have been written up in
15 April is what you are saying?

16 MS. BARNEY:

17 The write-up here is --

18 MS. WEINER:

19 There are different -- different
20 issues, at least as I understand.

21 MS. BARNEY:

22 I am looking at DSF 764 and 765 and
23 it shows the February 16 verbal about
24 Syngenta.

25 THE WITNESS:

1 Okay. So this is when they are
2 saying that they verbally talked me initially
3 about it. And the write-up would have been
4 April.

5 MS. BARNEY:

6 I see a write-up dated May 1.

7 THE WITNESS:

8 So it was about a month. Oh, maybe,
9 say, like a month.

10 MS. WEINER:

11 764 I think was the Bates number. I
12 am saying DSF 764.

13 MS. BARNEY:

14 I think that is an unsigned. There
15 are lots of copy of it.

16 MS. WEINER:

17 Yes, there is.

18 BY MS. WEINER:

19 Q. But his note to file is the one that I
20 understand you did your response to.

21 A. Yes, I guess I was pretty close so about
22 a month -- this is about a month and a half, maybe.
23 February she would have talked to me verbally is
24 what she is saying and then May would have been the
25 write-up.

1 Q. Okay. I think I understand what you are
2 saying. This note to file that is DSF 686 you never
3 saw.

4 A. No, I never saw that.

5 Q. Okay.

6 A. Really, I don't believe that existed.
7 She spoke to me verbally. I can't say she didn't
8 put this in my file because I never saw it but --

9 Q. But it says verbal contact at the top.

10 A. Yes. She told me basically that it was
11 no issue.

12 Q. Okay. So you had that verbal contact.
13 Do you have any reason to dispute that it was in mid
14 February 2012?

15 A. No.

16 Q. And then the next thing that we have is
17 -- let me go back here. DSF 687 is another note to
18 file. Take a look at that.

19 A. I never saw this before, same thing.

20 Q. So you had never seen this note to file
21 before?

22 A. No.

23 Yes. You see this is the same stuff that
24 was put in here, but this was never -- this was
25 never reported. This verbal communication he is

1 saying never took place. He may have told me
2 something about -- let's see. Okay. This is about
3 a truck being stuck. Yes. They told me -- okay.
4 The March 18, that's the one that Gene and all did,
5 I called Elizabeth and called Kerry Long and I told
6 Kerry Long what do you want me to do because the
7 last time I did this, he was not happy at all about
8 the way I did it. And Kerry Long told me if we
9 didn't think it was going off-site, not to worry
10 about it. But if we did think it was going
11 off-site, we needed to contact Mark and Lonnie and
12 then him. So I did whatever he told me to do. And
13 he didn't like the fact -- he didn't like the fact
14 that I didn't make a first report. But I did make a
15 first report because I just saw it. That was March
16 18th, right?

17 Q. Did you make the first report after he
18 let you know he was unhappy that you didn't do one?
19 Was that kind of after you had the discussion and
20 you go do the report?

21 A. It was after one of the first reports,
22 but I don't think it was this one. It was after a
23 first report where I had deemed it was not big
24 enough to make a first report because he had told me
25 previously that if we thought it wasn't that big, we

1 could just tell our shift relief to keep an eye on
2 it or put it in the book, which I put it in the book
3 and I told the shift relief. It wasn't after this
4 one because I had made this one. He is talking
5 about the -- yes. They wanted me to make a first
6 report on the company vehicle being stuck, which I
7 did not do because the truck gets stuck all the
8 time. Nobody ever made -- we never made first
9 reports to begin with, but we certainly didn't make
10 them on a truck being stuck and they acted like that
11 was a whole big incident that -- and I -- when I
12 turned in the first report, he said -- Elizabeth
13 came and told me, no, we want the first report
14 written about the truck being stuck. And I was
15 like, the first report wasn't about the gas leak?
16 And they were like, no, we want it written on the
17 truck being stuck. So everybody was like they
18 couldn't believe that -- because the truck had been
19 wrecked before. George had drove the truck through
20 the fence already and there was no reports ever made
21 on that.

22 Q. When you are finished --

23 A. I don't know whether he contacted me
24 about that or not, like he is saying in there
25 verbally he talked to me. He may have said

1 something about me not writing the report on the
2 truck. I don't know.

3 MS. WEINER:

4 Okay. I want to make sure we get
5 our documents straight here. Let's attach --
6 we have got Exhibit #1 attached. Let's attach
7 the two logbook entries that we discussed and
8 that have -- not all of them have your writing
9 so just the we discussed, DSF 381 and 389
10 we'll attach as Exhibit #2. And then we will
11 attach -- and then we have -- we'll attach as
12 Exhibit #3 the initial incident report dated
13 3/18/12 and then the corrective action
14 documents that we have discussed DSF 685, 686
15 and 687 as Exhibit #4.

16 MS. BARNEY:

17 Actually, since he was reading from
18 this, I would like to attach it if that's
19 okay. So we don't have to go digging for it.

20 MS. WEINER:

21 Okay.

22 MS. BARNEY:

23 I will make a note to replace
24 Exhibit H on this copy.

25 MS. WEINER:

1 And then we will mark as Exhibit #5
2 the initial incident report completed by Jeff
3 Simoneaux that was attached to Exhibit H to
4 the complaint, but it will be Exhibit #5 to
5 this deposition.

6 Let's go off the record for just a
7 second.

8 (Recess taken.)

9 MS. WEINER:

10 Then we have marked as Exhibit #6,
11 this is an e-mail dated Friday, May 4th, 2012.
12 It is from Elizabeth to Meta. It says, "Here
13 is the note to file presented to him. He has
14 a copy." So I'm assuming this was the final
15 version. I know we said we had many versions
16 floating around. It is DSF 776 through 781 is
17 what I have attached here, and, actually, the
18 last two pages, 781 -- 780 and 781 are
19 actually a different e-mail. We'll go ahead
20 and just keep it in this group.

21 MS. BARNEY:

22 There is the version that has his
23 response and they said they would keep that
24 filed with it.

25 MS. WEINER:

1 Right. I do know that we have a
2 response. That's what I was looking for. I
3 have seen it many times. I just can't lay my
4 hands on it right this second.

5 BY MS. WEINER:

6 Q. But I know you did have a response to it
7 as well.

8 A. Yes.

9 Q. As you looked that over, as far as 2012,
10 is that the only formal document you recall
11 receiving in 2012 about any performance issues or
12 problems that you were having at the plant?

13 MS. BARNEY:

14 I object to the form.

15 THE WITNESS:

16 Other than Tom coming in that day
17 and kind of threatening me.

18 BY MS. WEINER:

19 Q. But there was no document about that?

20 A. No.

21 Q. My question is as far as being presented
22 with a document --

23 A. Right.

24 Q. -- here is a formal, you know, note of
25 problems that we are having; this was the only one

1 that you received in 2012?

2 A. Right. Yeah, that was it. I did have a
3 conversation, again, with Gretta, the H.R.
4 representative, and told her that I fully expected
5 to be written up and/or fired at some point and she
6 said for what. And I said, I don't know, Gretta.
7 They are going to come up with something.

8 Q. Was your discussion with Gretta before or
9 after you had this meeting?

10 A. It was before this. Not long before,
11 like a week before or a couple weeks before.

12 Q. What did you call -- what did you get in
13 touch with Gretta about to have that conversation
14 with her?

15 A. She had come to the site, I had thought,
16 to hopefully investigate what I had called about.

17 Q. What had you called about?

18 A. The leaks. I had called the hotline
19 about the leaks.

20 And, also, I think that I had called or
21 written Linda Julius in regards to maybe how Tom
22 responded. I am not 100 percent about that, though.
23 And I thought she was coming to the site to talk to
24 me. But she passed by the control room. We were
25 working nights and she would come back -- come by --

1 she came by the control room to say hello, I guess,
2 or to meet us because we had never met her. And
3 didn't indicate that she was here to talk to anybody
4 specific and didn't even know -- seem to know who I
5 was or anything. So I asked -- when she was about
6 to leave, I said, do you have a minute; can I talk
7 to you? And she was kind of surprised and she said,
8 yes. So I ended up talking to her for well over an
9 hour kind of describing the whole thing that
10 happened with the employment case because she was
11 here -- I mean, she took Butch Cameron's place so
12 she obviously hadn't heard our side of it, and told
13 her what was going on with Tom since he had been
14 there. And like -- I pretty much talked the whole
15 time and she listened.

16 And after I was finished talking, she
17 just -- just exactly what happened, she sat down,
18 kind of pushed her chair back and looked up at the
19 ceiling and said, wow, that's a lot. And that was
20 it. And then she took a long pause and she said,
21 well, what do you want -- what do you expect us to
22 do? And I said, well, I thought you were here to
23 investigate all of this. And she said, no. She
24 wasn't basically here to do anything. And I said,
25 but, Gretta, I said, you understand I feel

1 threatened and I have no doubt in my mind they fired
2 Nathaniel, they are going to fire me next. They are
3 going to write me up and you are going to see it
4 happening. And she said, but for what? I said, I
5 have no idea. But Rapp didn't know he was going to
6 be fired when he turned in a safety violation for
7 sure. And kind of all I remember. And we just left
8 like that.

9 And, sure enough, I don't know if it was
10 a week or two later, I was brought into the office
11 and this was read to me. And I immediately called
12 her and she had told me previously that if I had any
13 questions, whatever, call her. So I told Elizabeth
14 when she read this to me that Tom was in there with
15 me and I asked for Ryan to be in there as well, but
16 Elizabeth read this whole document and Tom just sat
17 in there as a witness, like. And I said I would
18 like to speak to Gretta about this. And I spoke to
19 Gretta and I said, Gretta, I told you this was going
20 to happen and here I am not a week or two later and
21 I'm being written up and threatened with
22 termination. And I said, you remember I told you
23 that? And she said, yes, but you don't understand,
24 Jeff, this is something I helped them prepare. And
25 so she told me that she was involved in me being

1 written up. So they weren't -- they are not -- this
2 is just a note to file, she said. It doesn't -- try
3 to think about what they are trying to tell you.
4 And I said -- at that time, I said, wait a minute,
5 are you telling me that I should -- I forget the
6 terminology I used, but basically change my story or
7 change my character. No. We are not asking you to
8 do that. We are not asking you to do that. Just
9 think about what they are trying to tell you.
10 That's what she told me. And I said, well, I am not
11 going to change my character, for lack of a better
12 word, for anybody. And that was it.

13 But it basically says in here, and I have
14 read through documents that discuss my termination
15 and they decided to go with this instead. But she
16 led me to believe that the note to file was just a
17 note to file. It is not even a write-up, but I do
18 lose my bonus and I did -- I was on probation for a
19 year. I was going to be on probation for a year and
20 --

21 Q. Okay. You let's separate it out because
22 you threw a lot in there at the end.

23 You didn't lose your bonus because of
24 this May note file right here; is that true?

25 A. I thought I did. I thought I didn't get

1 my bonus for this year. I didn't get part of it
2 when I separated from DuPont.

3 Q. You left voluntarily from DuPont.

4 A. Right.

5 Q. You didn't get fired from DuPont --

6 A. I am still supposed to get my bonus up to
7 the point that I left because they prorate all of
8 that like they did for the first one. I was
9 prorated a portion of my bonus for the time I wasn't
10 on probation.

11 Q. Is your understanding that as a result of
12 this May note to file, the one that we have marked
13 as Exhibit #6 that is right in front of you, that
14 you were put on probation because of that?

15 A. Uh-huh.

16 Q. Yes?

17 A. Yes. Yes.

18 Q. So your understanding was as of the
19 beginning of May, you were on probation?

20 A. Right. For a year.

21 Q. All right. And because of your prior
22 experience of being on probation, you understood
23 that you may not get a bonus if you are on
24 probation?

25 A. Right. And that prior probation was

1 rescinded because of the employment situation and I
2 guess they found out the evidence showed that we
3 were correct.

4 Q. It was ultimately rescinded. We may have
5 a difference of agreement as to why --

6 A. Correct.

7 Q. -- but it was ultimately rescinded?

8 A. Correct.

9 Q. As you sit here today, are you claiming
10 that you are entitled to some bonus that you did not
11 get when you left DuPont's employment?

12 A. I didn't get it. As far as I know, I
13 didn't get any of my bonus for that year and I would
14 have been employed with them until August.

15 Q. Okay. Is that anything you've ever asked
16 for?

17 A. Not specifically, no.

18 Q. After you got this document in May, you
19 called the hotline after that?

20 A. If I told you I called after or before, I
21 would be lying. I do not know. I know I called
22 them.

23 Q. If the records show that you called the
24 hotline after that --

25 A. Yes.

1 Q. -- then you would agree with that?

2 A. Absolutely.

3 Q. Okay. How many times during your
4 employment at Burnside did you call the hotline to
5 complain about treatment that you thought was unfair
6 to you? And I know you may not know exactly
7 numbers --

8 A. In regards to just this case or the --

9 Q. The employment case and this case.

10 A. I have never called the hotline prior to
11 the employment case and this case, but during the
12 employment case, I may have called three times and
13 spoke to I think the same person, Linda Julius,
14 maybe. It was two ladies, actually, I talked to.

15 Q. So three calls during the employment
16 case. Any that -- and then is that including the
17 one that may be in May after you got this document?

18 A. Yeah. I think this may have been another
19 time I called Linda Julius. Just I wanted it on
20 record. And I also called that hotline where we
21 report gas leaks internally that weren't being
22 reported.

23 Q. So how many times do you think you called
24 the hotline --

25 A. That's not really the hotline -- it's a

1 different hotline, I should say.

2 Q. How many times did you call that number,
3 the different one for the gas leaks?

4 A. Once. And the guy called me back.

5 Q. When he called you back, what was the
6 discussion?

7 A. I had basically told him that I was
8 informed -- he wanted to ask me about the leak and
9 where it was and what was -- and where it was going,
10 and how long we were having it. And I basically
11 told him I was advised by my attorney at this point
12 to not discuss anything further and that if he had
13 any other additional questions, he needed to contact
14 her. And he said, well, you contacted us
15 complaining about the gas leaks and now you don't
16 want to talk to us. I said, well, that's what I am
17 being advised right now.

18 Q. What was the time frame of this call?

19 A. I have no idea.

20 MS. BARNEY:

21 Monique, I think -- I am sorry. I
22 just want to clarify something because I have
23 been trying to gather up any documents to
24 supplement our production and I came across a
25 handwritten note from this guy.

1 MS. WEINER:

2 From the gentleman that he is --

3 MS. BARNEY:

4 I don't even think that I told you.

5 His name on our initial disclosures starts
6 with a B.

7 THE WITNESS:

8 Oh, yeah, Bazile or something.

9 MS. BARNEY:

10 So I will be producing it to you.

11 THE WITNESS:

12 He was like an auditor of -- some
13 kind of auditor or something.

14 BY MS. WEINER:

15 Q. But this is someone within DuPont?

16 A. Yes. And it was on the hotline that
17 dealt with the leaks.

18 Q. Okay. When you had that conversation
19 with him, were you still employed at DuPont or was
20 this after you had left?

21 A. I believe I was employed. Yes, yes. I
22 would have to look it up. It's on the internet web
23 page.

24 Q. Some of the video that you produced as
25 part of your production in this case where it looks

1 like video in February and March where you had
2 videoed the monitors in the control room.

3 A. Correct.

4 Q. Did you understand that that was
5 prohibited or accepted policy?

6 A. Accepted.

7 Q. Okay.

8 A. Actually, I was using the camera that
9 they gave me at the site.

10 Q. What camera did they give you? Under
11 what circumstances did they give you a camera?

12 A. They gave us cameras when we were cluster
13 leads for the DAR project, which was a dual
14 absorbance retrofit that led to the HIP and the CIP
15 being installed. I was a cluster lead over the
16 steam system and we were to take pictures as they
17 were building -- as they were putting the new
18 installation in so that we could train our
19 co-workers.

20 Q. This was video film that you were
21 supposed to take or was it still photography?

22 A. This was either/or. They let us do the
23 presentation however we wanted.

24 Q. What type of camera --

25 A. It was a Power Point.

1 It was a camera, a Kodak camera, I
2 believe, and it also takes video.

3 Q. So it had the ability for both still
4 pictures and video?

5 A. Right.

6 Q. And you used the video portion of it to
7 show --

8 A. Right. I just --

9 Q. -- what was on the monitor?

10 A. Right, the monitor, yes.

11 Q. The DAR project had been over for a while
12 by the time you were capturing this time?

13 A. Yes. I would say a year or two.

14 Q. So those cameras, they never took them
15 back or anything? They just let everybody --

16 A. I left mine there in my locker, and as
17 far as I know, they still have it.

18 MS. WEINER:

19 All right. Thank you for your time.

20 I think that's all I have.

21 THE WITNESS:

22 Okay.

23 MS. BARNEY:

24 All right. If we could attach the
25 rest of that document, 782 to 790, where he

1 says I agree that we should attach Jeff's
2 response to the note to file he was given. It
3 picks up at the end of that Bates number. It
4 is supposed to be officially attached to the
5 note to file according to Tom Miller.

6 MS. WEINER:

7 Is his response in that group of
8 documents?

9 MS. BARNEY:

10 Yes.

11 MS. WEINER:

12 That's fine.

13 MS. BARNEY:

14 That is a separated 782. Let me --
15 I will get a copy made because that has my
16 highlighting.

17 MS. WEINER:

18 What are the Bates numbers?

19 MS. BARNEY:

20 782 to 790.

21 MS. WEINER:

22 Let me see if I have it. Yes, I do
23 have it. I'm sorry. Yes, we can attach that.

24 MS. BARNEY:

25 All right.

1 MS. WEINER:
2 We will attach that as -- did you
3 want it as part of Exhibit #6 or separate?

4 MS. BARNEY:
5 Yeah. I think he says it ought to
6 be part of it.

7 MS. WEINER:
8 Okay. We will just put it in the
9 back.

10
11
12 (End of deposition.)
13
14
15
16
17
18
19
20
21
22
23
24
25

DEPOSITION ERRATA SHEET

Our Assignment No. 18697

Case Caption: UNITED STATES OF AMERICA, ET AL.

vs. E.I. du PONT de NEMOURS AND COMPANY

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury
that I have read the entire transcript of
my Deposition taken in the captioned matter
or the same has been read to me, and
the same is true and accurate, save and
except for changes and/or corrections, if
any, as indicated by me on the DEPOSITION
ERRATA SHEET hereof, with the understanding
that I offer these changes as if still under
oath.

Signed on the _____ day of

_____, 2013.

JEFFREY M. SIMONEAUX

DEPOSITION ERRATA SHEET

Page No.____Line No.____Change to:

Reason for change:

Page No.____Line No.____Change to:

Reason for change:

Page No.____Line No.____Change to:

Reason for change:

Page No.____Line No.____Change to:

Reason for change:

Page No.____Line No.____Change to:

Reason for change:

SIGNATURE:_____DATE:_____

JEFFREY M. SIMONEAUX

DEPOSITION ERRATA SHEET

Page No.____Line No.____Change to:

Reason for change:

Page No.____Line No.____Change to:

Reason for change:

Page No.____Line No.____Change to:

Reason for change:

Page No.____Line No.____Change to:

Reason for change:

Page No.____Line No.____Change to:

Reason for change:

SIGNATURE:_____DATE:_____

JEFFREY M. SIMONEAUX

REPORTER'S CERTIFICATE

This certification is valid only for a transcript accompanied by my original seal on this page.

I, BETTY D. GLISSMAN, Certified Court Reporter, in and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that JEFFREY M. SIMONEAUX, to whom the oath was administered, after having been duly sworn by me upon authority of R.S. 37:2554, did testify as hereinbefore set forth in the foregoing 172 pages;

That this testimony was reported by me in the stenotype reporting method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding;

That the transcript has been prepared in compliance with transcript format guidelines required by statute or by rules of the board;

That I have acted in compliance with the prohibition on contractual relationships, as defined by Louisiana Code of Civil Procedure Article 1434 and in rules and advisory opinions of the board;

That I am not related to counsel or the parties herein, nor am I otherwise interested in the outcome of this matter.

December 4, 2013, Baton Rouge, Louisiana.



BETTY D. GLISSMAN, CCR

CERTIFIED COURT REPORTER